

# Construction Code Communicator



State of New Jersey  
 Chris Christie, Governor  
 Kim Guadagno, Lt. Governor

Department of Community Affairs  
 Richard E. Constable III, Acting Commissioner

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## ADA, BFSC, and Swimming Pools: A Brief Explanation

















It has come to the Department's attention that there is information being disseminated by the Department of Health and Senior Services (DHSS) concerning the requirements from the Americans with Disabilities Act (ADA) that public swimming pools be accessible. The guidance from DHSS states that the Department of Community Affairs (DCA) is responsible for enforcing this Federal retrofit requirement. This is not the case. A brief explanation could be helpful.

The ADA is Federal civil rights law. As such, it requires that people with disabilities have access to public accommodations and to State and local governments' "programs, services, and activities." On September 15, 2011, the Department of Justice (DOJ) adopted a rule requiring swimming pools that are public accommodations or owned by a public entity be accessible to people with disabilities. This is a retrofit requirement. Swimming pools that are not accessible are required to be made accessible. The original effective date for this requirement was March 15, 2012; the DOJ has recently extended the effective date to May 19, 2012. The ADA is enforced by DOJ. It does not provide for the delegation of enforcement authority to State or local governments, so code enforcement officials are not "deputized" to enforce these requirements.

That said, since 1986, the Barrier Free Subcode (BFSC) has required that public or common use swimming pools be accessible. Therefore, public or common use swimming pools in New Jersey built after 1986 should comply with the accessibility requirement.

In addition, when the ADA was passed in 1990 and the Americans with Disabilities Act Accessibility Guidelines (ADAAG) were published in 1991, there was a requirement for Title II entities (State and Local Governments) that all "programs, services, and activities" be available to all citizens. At that time, to comply with the broad brush requirements of the ADA, many swimming pools owned and operated by local governments that had not been accessible were made accessible through municipal initiatives. Similarly, the ADA required that entities subject to Title III (Public Accommodations and Commercial Facilities) improve accessibility insofar as doing so was "readily

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**ADA, BFSC & Pools**

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achievable.” Again, accessibility to swimming pools was one of the “readily achievable” improvements undertaken by many public accommodations in response to their ADA obligation.

State law preceded Federal law in requiring accessible swimming pools. The statement by DHSS that these accessibility requirements of the ADA are enforceable by the code enforcement officials is inaccurate. Code officials enforce the Barrier Free Subcode. The ADA is enforced by complaint; questions about the complaint process should be addressed to the DOJ in Washington, D.C.

Please do not hesitate to contact me at (609) 984-7609 if you have questions on the scoping requirements of the BFSC; questions on the technical requirements of the BFSC should be addressed to the Code Assistance Unit at the same telephone number.

Source: Emily W. Templeton  
Division of Codes and Standards

## Single Means (Sole Path) Fire Alarm Transmission

Recently, the Department received phone calls about contractors installing single means (sole path) communications equipment for fire alarm transmission. The most common question is: Can a fire alarm signal be transmitted by a single means (sole path)? The answer is: Yes.

National Fire Protection Association (NFPA) 72/2007, Section 8.6.4, “Other Transmission Technologies,” allows for the installation of means other than those that the standard covers. These other technologies must meet the requirements of Section 8.6.4.4, “Communication Integrity.” The following is a list of the items that must be verified when a single transmission means (sole path) is used:

- (1) Any failure shall be annunciated at the supervising station within 5 minutes of the failure.
- (2) If communications cannot be established with the supervising station, an indication of this failure to communicate shall be annunciated at the protected premises.
- (3) If a portion of the communications path cannot be monitored for integrity, a redundant communications path shall be provided.
- (4) Provision shall be made to monitor the integrity of the redundant communications path.

*See Fire Alarm Transmission at right*

**Fire Alarm Transmission**

*Continued from left*

(5) Failure of both the primary and redundant communications paths shall be annunciated at the supervising station within not more than 24 hours of the failure.

(6) System units at the supervising station shall be restored to service within 30 minutes of a failure.

(7) The transmission technology shall be designed so that, upon failure of a transmission channel serving a system unit at the supervising station, the loss of the ability to monitor shall not affect more than 3000 transmitters.

Single means (Sole Path) communications is typically found in Radio Frequency (RF) and Internet Protocol (IP) Fire Alarm Communications Equipment; however any listed fire communications equipment that meets the performance criteria of NFPA 72 can be used as Single Means (Sole Path).

Code Officials should pay particular attention to the UL864 listing of communications equipment to ensure that the equipment is installed, configured and used in accordance with its listing, including, but not limited to, sole path communications.

Source: Michael E. Whalen  
Code Assistance Unit

## UCCARS Users Be Aware

A few offices are still using the original DOS-based UCCARS program for managing construction permits and there are many more offices that keep UCCARS for the purposes of looking up historical data.

These offices need to know that the original UCCARS program is a “16 Bit, DOS-Based Program.” The “64 Bit, Windows 7” operating system does not support 16 Bit, DOS-Based Programs, so UCCARS will not run on a computer running the “64 Bit, Windows 7” operating system.

If your office needs to purchase new equipment to run UCCARS, you need to specify on your computer purchase order, or to your municipal IT staff, that your new computer must be set up with the “32 Bit, Windows 7” operating system, which will support a “16 Bit, DOS Based Program.”

Questions may be directed to Richard Byrne at (609) 292-7899.

Source: Richard Byrne  
Division of Codes and Standards

# Rehab and Energy Subcode Update

The first provisions of the Energy Subcode entered the Rehabilitation Subcode on May 7, 2007. A *Construction Code Communicator* article was published in the Spring, 2007 edition on how to apply these provisions; until now, it has provided definitive guidance.

The Rehabilitation Subcode was updated on November 7, 2011; this update included an expansion of the provisions of the Energy Subcode. In this article, I would like to call attention to some of these amendments:

- Definitions – N.J.A.C. 5:23-6.3
  - "Commercial energy code" means the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) standard 90.1 adopted at N.J.A.C. 5:23-3.18 and applicable to all buildings other than residential buildings as defined at "residential energy code."
  - "Residential energy code" means the International Energy Conservation Code adopted at N.J.A.C. 5:23-3.18 and applicable to residential buildings, defined as R-3 and R-5 buildings, as well as R-2 and R-4 buildings three stories or less in height above grade.
- Renovation – N.J.A.C. 5:23-6.5(e)9 through 12;
- Alteration – N.J.A.C. 5:23-6.6(e)15 through 18;
- Reconstruction – N.J.A.C. 5:23-6.7(e)11 through 14;
- Materials and Methods – N.J.A.C. 5:23-6.8(l); and
- New Building Elements – N.J.A.C. 5:23-6.9(a)26 through 37

Taking the most extensive project, a reconstruction project, the following would apply to a building subject to the residential or commercial energy code:

1. Work that creates or exposes the roof decking/sheathing or the framing of any wall, floor, ceiling, or roof assembly that is part of the building thermal envelope (encloses conditioned space) is required to have any accessible voids in insulation filled using insulation meeting the minimum R-values in Table 402.1.1 of the residential energy code for wood framing and Table 402.2.5 of the residential energy code for metal framing equivalents or Table 5.5-4 or 5.5-5 of the commercial energy code, as applicable. However, if insulation meeting the R-values above cannot be installed due to space constraints, insulation that fills the cavities of the framed assembly must be installed instead.

*Update*

*Continued from left*

2. Newly installed and replacement fenestration (windows, skylights or doors) is required to meet the maximum U-factor in Table 402.1.1 of the residential energy code or of Table 5.5-4 or 5.5-5 of the commercial energy code, as applicable.
3. Newly installed and replacement ducts must be insulated to meet the minimum R-values of Section 403.2.1 of the residential energy code or Section 6.4.4.1.2 of the commercial energy code, as applicable.
4. Unless exempted by Section 9.2.2.3 of the commercial energy code, the total replacement of a building lighting system or a newly installed building lighting system must meet the following sections of the commercial energy code, as applicable: Section 9.4.1 for controls and Sections 9.5 and 9.6 for lighting power densities. (A "lighting system" is defined by the commercial energy code as "a group of luminaires circuited or controlled to perform a specific function.") The exception to this is the replacement of a lighting system within a room, space, or tenancy, which is then only required to meet Sections 9.4.1.2 and 9.4.1.4a, b, e, and f for controls and Section 9.6 for lighting power densities.

If the building owner decides to install new building elements in a building subject to the residential or commercial energy code, the following applies regardless of whether the project is a reconstruction:

1. Newly created access hatches and doors from conditioned spaces to unconditioned spaces (for example, attics and crawl spaces) are required in accordance with Section 402.2.3 of the residential energy code. For commercial buildings, newly created access hatches and doors are required to have a minimum R-value equivalent to that of the assembly penetrated and they must meet Sections 5.4.3.1 and 5.8.1.7.1 of the commercial energy code.
2. Newly created thermally isolated sunrooms are required to meet the minimum R-value and maximum U-factor requirements of Sections 402.2.11 and 402.3.5 of the residential energy code.
3. Newly installed wood burning fire places are required to meet Section 402.4.3 of the residential energy code or Section 5.4.3.1 of the commercial energy code and Section 2111.13 of the building subcode, as applicable, with regard to sealing the building thermal envelope.
4. Newly installed forced-air furnace heating systems are required to have controls meeting Section 403.1 of the residential energy code.

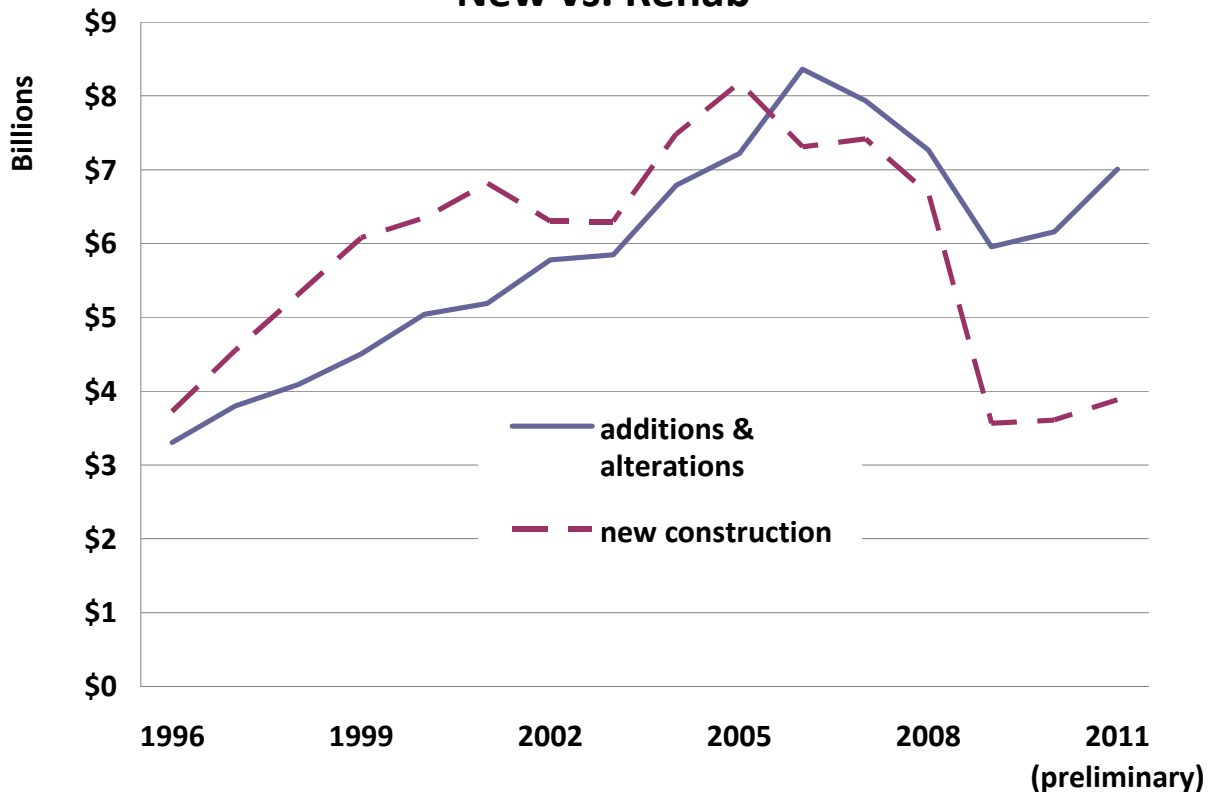
## December 2011 Construction Highlights

- 1,329 new houses were authorized by building permits in December. This is the highest level of production in forty months.
- Much of the new housing was apartments. Hackensack in Bergen County had 225 new dwellings in December, more than any other locality. A new apartment complex, Avalon Bay, accounted for all of this development.
- Jersey City in Hudson County had 153 authorized units. A large urban renewal development broke ground on Warren and York streets with 139 rental units. Jersey City had \$40 million of work in December, more than any other municipality.
- Authorized construction for the entire State was \$768.8 million. New homes and housing rehab accounted for \$403.1 million (52.4 percent). Office, retail, and other nonresidential work were \$365.5 million (47.6 percent).
- 562 of New Jersey's 566 municipalities reported.

### Year to Date

- Construction data for the year are still preliminary, as not all reports are in. The dollar amount for 2011 thus far is \$10.9 billion. This is \$1.1 billion more than last year.
- Nearly 65 cents of every dollar of construction was for existing structures. Additions and alterations, either tenant fit ups or renovations to existing houses and commercial buildings, was over \$7 billion. The estimated dollar amount of work for new buildings was \$3.9 billion.
- The number of new homes authorized by building permits is about what it was last year. There were 11,822 new dwellings authorized between January and December 2011. In 2010, there were 11,885.

## Dollar Amount of Authorized Construction: New vs. Rehab



## Ceiling Height Oversight

At N.J.A.C. 5:23-3.14(b)10iii, ceiling height for the general means of egress in the International Building Code/2009 (IBC/2009), Section 1003.2 is amended from "7 feet 6 inches (2286 mm)" dimension to "7 feet (2134 mm)".

There is a correlating section that is not referenced directly that should also have been amended upon adoption of the IBC/2009 for consistency: The minimum ceiling heights within the interior space dimensions at Section 1208.2 should have included the same change and the "7 feet 6 inches (2286 mm)" dimension should be "7 feet (2134 mm)" for occupiable spaces, habitable spaces, and corridors (also a means of egress component like Section 1003.2).

These sections should have been reconciled when the original modification was made. The Department recommends that local construction officials allow for the smaller dimension for components listed in Section 1208.2; a variation should not be required.

In the upcoming proposal to adopt the IBC/2012, Section 1208.2 will be proposed for amendment to match the amendment to Section 1003.2.

If you have any questions, please contact the Code Assistance Unit at (609) 98407609.

Source: Code Assistance Unit

## Independent Means of Egress for Group R-5 Buildings

The Department has received numerous inquiries regarding the means of egress requirements for Group R-5 buildings.

Specifically, the question that arises is: "Can a detached two-family dwelling with a shared common entry foyer as its only means of egress be a Group R-5 occupancy constructed in accordance with the one- and two-family dwelling subcode?"

The answer is: No. If the detached two-family dwelling has a shared common entry foyer as its only means of egress, the occupancy classification is Group R-3; it must comply with the building subcode (N.J.A.C. 5:23-3.14).

In accordance with N.J.A.C. 5:23-3.21(b), the provisions of the one- and two-family dwelling subcode apply to Group R-5 occupancies that are not more than three stories in height. In Section 310.1 of the 2009 International Building Code (New Jersey Edition), entitled "Residential Group R", a Group R-5 building is

*See Egress at right*

## Energy Subcode-compliant 2x4 Walls for Zone 5

(Reprinted courtesy of the U.S. Department of Energy's Building Energy Codes Program, <http://www.energycodes.gov/help/notes.stm>)

### 1 – Background

Using 2x4 studs in an exterior wall has gotten more challenging for Zone 5 in New Jersey. The 2009 International Energy Conservation Code (IECC) does not permit trade-offs for installing high-efficiency HVAC equipment. The more permanent building insulation and sealing features now take precedence. However, there still remain optional strategies allowing 2x4 exterior stud walls.

### 2a – Prescriptive Compliance Approach

#### *Insulation Requirements*

IECC Section 402.1.1 and Table 402.1.1 establish insulation and fenestration requirements by component, based on the climate zone specified in Chapter 3, for prescriptive compliance with the residential energy code. The table specifically accommodates 2x4 studs in wood frame walls in Zone 5 by footnote "h" which allows compliance by R-13 cavity insulation layered with R-5 insulative sheathing. The following prescriptive compliance approaches for 2x4 stud frame exterior walls are allowed in the code.

- For Zone 5, the IECC requires R-20 or "13+5" wood frame walls. The "13+5" means R-13 stud cavity insulation plus R-5 insulating sheathing (see below)
  - If structural sheathing covers 25 percent (25% ) or less of exterior, insulating sheathing is not required where structural sheathing is used (R-5 insulating sheathing is required where structural sheathing is not used)
  - If structural sheathing covers more than 25%, structural sheathing shall be supplemented with insulated sheathing of at least R-2.

*See Zone 5 Walls -page 15*

#### **Egress**

*Continued from left*

defined as "Detached one- and two-family dwellings not more than three stories in height *with a separate means of egress* and multiple single-family townhouses not more than three stories in height *with a separate means of egress* designed **and** constructed in accordance with the one- and two-family dwelling subcode." (emphasis added)

Therefore, in order to be a Group R-5 occupancy, each dwelling unit must be provided with an egress door directly to the exterior of the building.

If you have any questions, please direct your calls to me at (609) 984-7609.

Source: Marcel Iglesias  
Code Assistance Unit

**Construction Highlights**

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- Office construction is down by 11 percent, and new retail space declined by 25 percent.
- Jersey City had the most construction. The City also issued permits for 700 new houses, more than any other locality. The dollar amount of all construction was \$246.3 million, and about 38 percent was for new houses. Jersey City has led the State with the most new housing in eight of the past 11 years.
- Newark in Essex County had \$209.2 million of construction. This was the second highest total among municipalities. Newark had 180 new dwellings in 2011 (13<sup>th</sup> among all localities) and several big, nonresidential developments, including a new police precinct building and a Marriott Courtyard hotel.
- Atlantic City in Atlantic County had \$198.1 million of work. Much of this was for Revel Entertainment's casino-hotel-parking complex. Other big projects were a new school and renovations at the Golden Nugget casino.

<b>Major Construction Indicators, New Jersey</b>				
<b>December Year-to-Date Figures Compared to Annual Totals</b>				
<b>Period</b>	<b>Estimated Cost of Construction</b>	<b>Authorized Housing Units</b>	<b>Authorized Office Space (square feet)</b>	<b>Authorized Retail Space (square feet)</b>
<b>Year-to-Date Figures (January to December)</b>				
<b>Jan-Dec 2011</b>	\$10,890,224,961	11,822	4,889,841	1,649,925
<b>Jan-Dec 2010</b>	\$9,657,851,990	11,578	5,192,205	2,135,558
<b>Jan-Dec 2009</b>	\$9,454,767,714	11,067	4,035,812	2,417,629
<b>Jan-Dec. 2008</b>	\$13,834,284,685	16,203	7,869,822	5,459,374
<b>Jan-Dec 2007</b>	\$14,907,746,308	25,472	8,875,968	4,993,848
<b>Annual Figures</b>				
<b>2010</b>	\$9,768,642,343	11,885	5,496,579	2,192,231
<b>2009</b>	\$9,517,725,396	11,145	4,253,888	2,248,935
<b>2008</b>	13,944,534,578	16,338	7,962,998	5,557,101
<b>2007</b>	15,356,572,820	25,948	9,569,501	5,423,889
<b>2006</b>	15,675,107,955	32,050	11,113,555	5,186,662
<b>2005</b>	15,397,507,147	39,688	11,038,132	5,965,258
<b>2004</b>	14,274,331,850	39,254	12,219,068	4,911,257
<b>2003</b>	12,148,747,807	35,171	9,744,146	6,038,428
<b>2002</b>	12,079,942,099	34,589	9,261,054	7,560,913
<b>2001</b>	12,007,456,630	35,680	19,134,533	7,244,833
<b>2000</b>	11,387,683,514	38,065	15,531,039	6,063,412
<b>Jan-Dec 2010 vs. 2009 &amp; 2008</b>				
<b>Jan-Dec 2011 vs. 2010</b>	\$1,121,582,618	-63	-606,738	-542,306
<b>Percent Change</b>	11.5%	-0.5%	-11.0%	-24.7%
<b>Jan-Dec 2011 vs. 2009</b>	\$1,372,499,565	677	635,953	-599,010
<b>Percent Change</b>	14.4%	6.1%	14.9%	-26.6%

Source: N.J. Department of Community Affairs, 2/8/12

**Construction Highlights**

*continued from page 6*

- State Buildings includes permits to New Jersey State agencies and their instrumentalities. The estimated cost of work authorized by building permits was \$339.9 million. Public colleges and universities accounted for much of this. Major developments were a new medical college for Rowan University and renovations and new construction for Montclair State University. The figure also includes a new terminal for Atlantic City International Airport.

<b>Authorized Housing in Newark and Jersey City, 2001-2011(preliminary)</b>					
<b>Year</b>	<b>Newark</b>		<b>Jersey City</b>		<b>All New Jersey</b>
	<b>Authorized Units</b>	<b>Rank</b>	<b>Authorized Units</b>	<b>Rank</b>	<b>Authorized Units</b>
2001	1,066	2	2,009	1	35,680
2002	1,223	1	907	2	34,589
2003	1,730	1	969	2	35,171
2004	1,702	2	2,156	1	39,254
2005	2,611	2	3,778	1	39,688
2006	2,125	2	2,578	1	31,709
2007	927	2	2,765	1	25,948
2008	289	6	1,468	1	16,338
2009	285	4	1,132	1	11,145
2010	169	18	249	11	11,885
2011 (preliminary)	180	13	700	1	11,822

Source: N.J. Department of Community Affairs, 2/8/12

- Three of the top six municipalities with the most work in 2011 are in Hudson County: Jersey City (\$246.3 million); Secaucus (\$157.2 million); and Hoboken (\$131.3 million).
- These three municipalities also had nearly 10 percent of all the new dwellings in the State.

<b>Dollar Amount of Authorized Construction</b>					
<b>Top Performers, 2011(preliminary)</b>					
<b>Municipality</b>	<b>County</b>	<b>Estimated Cost of Construction (dollars)</b>	<b>Authorized Housing Units</b>	<b>Authorized Office Space (square feet)</b>	<b>Authorized Retail Space (square feet)</b>
Jersey City	Hudson	\$246,347,233	700	43,159	28,712
Newark City	Essex	209,235,098	180	11,703	100,735
Atlantic City	Atlantic	198,080,732	26	0	0
Secaucus Town	Hudson	157,226,724	128	3,750	0
Toms River	Ocean	156,093,065	122	157,578	137,409
Hoboken City	Hudson	131,323,633	308	0	0
Livingston	Essex	127,648,866	25	6,478	0
Franklin	Somerset	122,513,488	156	42,403	17,125
Woodbridge	Middlesex	122,213,704	45	13,498	31,184
East Hanover	Morris	120,215,814	5	681,602	2,880
State Buildings		\$339,889,844	0	59,524	0
<b>New Jersey</b>		<b>\$10,890,224,961</b>	<b>11,822</b>	<b>4,889,841</b>	<b>1,649,925</b>

Source: N.J. Department of Community Affairs, 2/8/12

*See Construction Highlights -page 8*

**Construction Highlights**

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**New Home Prices**

- New home prices dropped at the end of 2011.
- A total of 1,478 new houses began enrollment in a new home warranty program in October, November, and December 2011. Half of these houses cost more than \$394,688. This was 5.3 percent lower than the median sales price in the third quarter of 2011.
- Essex and Bergen Counties had the most expensive new houses. The median sales price in Essex was \$696,693. The median sales price in Bergen County was \$630,931.

<b>New House Prices</b>			
<b>Period</b>	<b>Number of New Houses</b>	<b>Median Sales Price</b>	<b>Percent Change in Sales Price</b>
1996	20,903	\$183,300	
1997	21,640	\$190,000	3.7%
1998	23,884	\$209,980	10.5%
1999	24,479	\$224,496	6.9%
2000	25,058	\$231,728	3.2%
2001	23,372	\$253,670	9.5%
2002	23,647	\$274,705	8.3%
2003	22,226	\$307,168	11.8%
2004	23,844	\$349,900	13.9%
2005	24,571	\$378,992	8.3%
2006	22,697	\$413,825	9.2%
2007	18,397	\$424,570	2.6%
2008	13,841	\$425,000	0.1%
2009	9,161	\$368,512	-13.3%
2010	8,712	\$384,899	4.4%
1 <sup>st</sup> Quarter 2010	1,820	\$378,442	
2 <sup>nd</sup> Quarter 2010	2,811	\$380,360	0.5%
3 <sup>rd</sup> Quarter 2010	2,105	\$395,000	3.8%
4 <sup>th</sup> Quarter 2010	1,976	\$383,642	-2.9%
1 <sup>st</sup> QTR 2011 (p)	1,198	\$372,425	-2.9%
2 <sup>nd</sup> QTR 2011 (p)	1,644	\$406,485	9.1%
3 <sup>rd</sup> QTR 2011 (p)	1,473	\$416,825	2.5%
4 <sup>th</sup> QTR 2011 (p)	1,478	\$394,688	-5.3%

Note: (p) means preliminary

Source: N.J. Department of Community Affairs, 2/8/12





# Chimney Verification, UCC-F370 Questions and Answers

As you should be aware, the new UCC F370 Form (rev.01/12), "Chimney Verification for Replacement of Fuel-Fired Equipment," is now on the Division's website and can be downloaded and used. The updated form has additional information for the contractor to fill out. It replaces the Chimney Certification form and is used for replacement equipment only.

Many code officials suggested that additional information be included when the old form was updated; this expanded and revised form incorporates those suggestions.

N.J.A.C. 5:23-2.20 (d) states:

"In lieu of requiring the removal and reinstallation of the chimney vent connector for purposes of inspection of the chimney or vent as per N.J.A.C. 5:23-2:18, the construction official may accept a Chimney Verification for Replacement of Fuel-Fired Equipment (Form F-370), signed by the contractor who installed the replacement fuel-fired equipment. Verification from homeowners shall not be accepted in lieu of the required inspection.

1. A permit application using the Chimney Verification for Replacement of Fuel-Fired Equipment Form (Form F-370) for minor or emergency work must provide this form along with the permit application."

The following are some examples of projects with direction as to who is responsible for completing this form:

- 1. When a contractor applies for a permit to replace a water heater or furnace or boiler connected to an existing chimney, Chimney Verification Form F370 must be filled out and signed by the contractor doing the work and submitted to the code official.
- 2. When a contractor applies for a permit to replace a water heater or furnace or boiler and a new chimney liner is to be installed by the same contractor, Chimney Verification Form F370 must be filled out and signed by the contractor doing the work and submitted to the code official.
- 3. When a contractor applies for a permit to replace a water heater or furnace or boiler and a chimney liner is being installed by another contractor under a separate permit, a Chimney Verification Form is not required to be submitted by the contractor who is replacing the equipment. (NOTE: See #4 below for replacement of the chimney liner.)

See Chimney Verification at right

## Chimney Verification

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- 4. When a contractor applies for a permit for a chimney liner only and no equipment is being replaced by this contractor, no Chimney Verification Form F370 is required. The chimney liner contractor is required to submit, with the permit application, all the necessary information about the liner: material, size, calculations, and BTU/HR of all the equipment connected to the new chimney liner. A code official may require a separate form with the information needed for a proper review. This would not be Form F370.

It is important to note that the contractor also has the option of signing the form stating that he chooses not to submit verification and acknowledging that he will be required to be present for the inspection to remove and reinstall the chimney vent connector.

If you have questions, please contact me at (609) 984-7609 and I will try to address your concerns.

Source: Thomas C. Pitcherello  
Code Assistance Unit

## Local Planning Services

In the summer of 2011, the Christie administration eliminated the Council on Affordable Housing (COAH) and replaced it with Local Planning Services in the New Jersey Department of Community Affairs. The aim was to re-write affordable housing rules, reduce the span between statewide housing policy and local enforcement, and simplify and make faster the process by which local housing plans and development fees are approved and administered.

Local Planning Services proposed new rules on how need is measured, met, and paid for. In March 2012, the Appellate Division of the Superior Court of New Jersey overturned the Governor's reorganization plan and ruled only the Legislature could eliminate COAH. While affordable housing rules are in flux, technical assistants and construction officials should remember:

- 1. New Jersey's commitment to fair housing is constant. Municipalities must have and enforce land-use and development rules that are fair and provide realistic opportunities for everyone.
- 2. No municipality may assess or collect fees on nonresidential development. Don't collect the fee; don't do the paperwork. This moratorium extends through July 1, 2013. More about this is on the Governor's website:  
<http://www.state.nj.us/governor/news/news/552011/approved/2011824a.html>.

See Local Planning Services -page 12

Update

continued from page 3

5. Newly installed heating, cooling and ventilation systems are required to have controls meeting Sections 6.4.3, 6.5, 7.4.1, 7.4.4 and 7.4.6 of the commercial energy code, as applicable. Systems include, but are not limited to, the heating and cooling of air or liquids and the ventilation or exhausting of spaces.
6. Newly installed systems that include piping carrying fluids are required to have insulation meeting Sections 403.3 and 403.4 of the residential energy code or Sections 6.4.4.1.3 or Section 7.4.3 of the commercial energy code and Section 1204 of the mechanical subcode, as applicable.
7. Newly installed mechanical ventilation is required to have dampers meeting Section 403.5 of the residential energy code.
8. Newly installed heating and cooling equipment is required to be sized in accordance with Section 403.6 of the residential energy code or Section 6.4.2 and 7.4.1 of the commercial energy code, as applicable.
9. Newly installed snow and ice melting systems are required to be installed in accordance with Section 403.8 of the residential energy code or Section 6.4.3.8 of the commercial energy code, as applicable.
10. Newly installed pool heaters are required to meet Section 403.9 of the residential energy code or Section 7.4.5 of the commercial energy code, as applicable.
11. Newly installed recessed equipment and lighting is required to meet Section 5.8.1.6 of the commercial energy code with regard to maintaining insulation thickness.

Currently, N.J.A.C. 5:23-2.15(f)1vi requires energy subcode compliance documentation only for brand new buildings and additions. However, per N.J.A.C. 5:23-2.15(f)1vii, engineering details may be required for calculating the light power densities for a new lighting system. For this, the lighting portion of COMcheck for the building or space could be used.

If you have any questions, please contact me at (609) 984-7609.

Source: Rob Austin  
Code Assistance Unit



## Residential Heating and Cooling Load Calculation Requirements

(Reprinted courtesy of the U.S. Department of Energy's Building Energy Codes Program, <http://www.energycodes.gov/help/notes.stm>)

Mechanical systems in residential construction are commonly oversized, which increases installation costs, wastes energy, and reduces comfort and moisture control. Properly sized equipment will last longer, provide greater comfort, reduce noise, and save homeowners money. Yet builders and code officials are uncertain as to how to evaluate such calculations to make sure they meet the intent of the code and the sizing methodology approved in the Air Conditioning Contractors of America (ACCA) Manual J (or equivalent).

The 2009 International Energy Code (IECC) require sizing calculations be performed on every home by referencing Section M1401.3 of the 2009 International Residential Code (IRC). Section M1401.3 requires heating and cooling systems be sized to ACCA Manual J - Eighth Edition- or other approved heating and cooling load calculations. The ACCA sizing methodology has sufficient built-in safety factors to accommodate most conditioning needs. Therefore, it is important to follow all instructions in Manual J, use precise area measurements, and specific data.

Heating and cooling loads can be determined using a whole-house approach, or by performing a room-by-room load calculation. The room-by-room approach provides the information needed to determine the number of cubic feet per minute (cfm) of conditioned air needed to satisfy the heating and cooling load for the room. This information can then be used to determine the duct size necessary to deliver heating and cooling for the space.

The 2009 IECC regulates the indoor design temperature for use in performing load calculations. The IECC specifies that the maximum heating indoor temperature shall be 72°F, and the minimum cooling temperature shall be 75°F per Section 302.1.

Table IA, Outdoor Design Conditions, of ACCA Manual J (see below) requires that the outdoor winter and summer design temperatures be based on the 99 percent (99%) value for winter, and 1 percent (1%) value for summer. To select the appropriate system,

## Census Item Numbers

Construction officials and technical assistants report monthly permit and certificate activity to the New Jersey Department of Community Affairs. You also report residential building permit data to the U.S. Bureau of the Census. For most of you, these requirements occur behind the scenes. The computer software takes care of them. Still, you need to know what the U.S. Census Bureau is looking for. Here is a summary that may be helpful to have next to your computers.

IF Group	AND Permit Type	AND Number of Dwellings	THEN Census Item Number Is:
R-3	New	1	101
R-4	New	1	101
R-5	New	1	101
R-3	New	2 (duplex)	103
R-4	New	2 (duplex)	103
R-2	New	0 (college dormitory)	999
R-2	New	3 or 4	104
R-2	New	5 or more units	105
I-2 (assisted living)	New	5 or more units	105*
Residential	Alteration or Additions		999
All other groups	New, Addition, Alteration, or Demolition	Does not matter, but record dwellings in mixed-use buildings	999 (off item to the Census Bureau)

\* Note: If the assisted living facility has both nursing homes and apartments, count only the apartments as dwelling units.

The U.S. Census Bureau classifies construction with three-digit item numbers. They are concerned only with new, privately owned residential work, the number of new dwellings authorized by building permits, and their estimated cost. The housing units can be either for sale or rent.

Census item number 101 is used for single-family houses that can be either detached or attached to one or more other dwellings. An attached townhouse or row house is classified as a 101 if it is separated by a wall that extends from ground to roof, no other dwelling is above or below it, and it has a separate utility meter and heating system. If you use the item number 101, the Census Bureau expects to see one and only one new dwelling unit gained. If more than one is recorded, expect a phone call.

Census item number 102 is no longer used. It was used to distinguish new, single-family detached houses from attached ones. Today, if you issue a permit for a new house attached to another, call it a 101, unless, of course, it is not really independent from the other dwellings. Attached housing is covered by the other item numbers: 103, 104, and 105, which are discussed next.

A 103 is a new, privately owned residential building that has two units. These are duplexes. When you use item number 103, the U.S. Census expects to see two dwellings gained. They can both be rental units. They can both be for sale. One can be for sale and the other for rent, but there are only two dwellings.

A 104 is a privately owned, new residential building with either three or four new dwellings. If you know one of these units will be for sale and two will be rented, indicate this by entering in one for-sale unit and two for rent. These might be new, garden apartments or condominiums.

Census item number 105 is for new, privately owned residential buildings that will have at least five dwellings. If you report a 105 and indicate fewer than five new apartment or condominium units, expect a call from the Census Bureau asking for an explanation.

Local Planning Services

continued from page 9

3. Development fees on new homes may still be collected, as long as the ordinances for them were approved by either COAH or Local Planning Services.

Stay tuned and keep an eye on the Department of Community Affairs website (<http://www.nj.gov/dca>) for more details.

Source: John Lago  
Division of Codes and Standards



Census

continued from page 11

The Census Bureau only wants to know about new houses or apartments. They do not track demolitions. They are no longer interested in most nonresidential buildings. The exception is assisted living buildings, which may fall into building use I-2. Both the Census Bureau and the Department of Community Affairs recognize that these buildings are places where people live. The number of dwellings units in the assisted living facilities should be counted and recorded on the building permit. Keep in mind that, if the assisted living facility also has a wing for nursing home or hospital beds, only the assisted living units should be counted as dwellings. The hospital and nursing home beds are NOT counted as dwellings. In most instances, the appropriate census item number for assisted living facilities will be 105.

They also don't care about housing rehab work and conversions, even if it results in new housing. Building permits issued for alteration work in an existing apartment building, say deck repairs, should be classified as "999." So should the conversion of a building that was once a bank or some other commercial use into new housing.

Don't misunderstand. Although the Census Bureau is only interested in new, residential construction, we at the Department of Community Affairs still do want you to report on all types of work. The only item numbers you have to remember, as far as the U.S. Census is concerned, however, are: 101, 103, 104, and 105. Everything else is a 999 or an "off item," to the Census Bureau.

If you have questions, you can call the Census Bureau directly at the toll free number: 1-800-845-8244. You also can call or e-mail me with questions.

Source: John Lago  
[jlago@dca.state.nj.us](mailto:jlago@dca.state.nj.us)  
NJ Department of Community Affairs  
609-292-7898

## Hot Aisle/Cold Aisle Containment Systems in Data Rack Storage Configurations

The Division of Codes and Standards has received several inquiries about hot aisle/cold aisle containment systems installed within data center rack configurations. These systems can best be described as physical barriers that eliminate or reduce the mixing of cold supply air and hot exhaust air from a data center rack configuration. The installation of these systems can provide a data center operator with a reduced energy expense.

When a hot aisle/cold aisle containment system is installed, a UCC permit must be obtained. These systems could be part of a new construction project, however most of the installations we have been made aware of are within existing buildings. Additionally, it is possible that existing Information Technology Equipment (ITE) rack configurations may be modified shortly after they have been installed because of ever-evolving technology. It is imperative that UCC enforcing agencies recognize that these systems may create physical barriers to fire protection systems within the building that these barriers are not always taken into account by design professionals.

Several hot aisle/cold aisle containment systems use plastic strips that closely resemble plastic curtains. These curtains are hung from the ceiling and create a containment area between the top of the rack configuration and the ceiling. Depending upon the Group classification, the International Building Code (IBC) may require this material to meet the flame propagation criteria of NFPA 701. Some of these systems use fusible heat links to drop the plastic strips; however, the systems themselves have not been tested as an assembly to show that the heat links will release properly so as not to obstruct the sprinkler head spray pattern in protected areas. There does not appear to be any UL certification for these systems. In addition, the UL 33 standard used to investigate fusible links is not relevant because it is not clear how the standard applies to this product.

When hot aisle/cold aisle containment systems are installed, automatic detection, automatic sprinklers, or alternative automatic fire extinguishing systems may be impacted. Typical impacts to these systems can include but are not limited to obstructing discharge patterns of fire sprinklers, limiting the distribution of alternative agents, and limiting the performance of automatic initiating devices such as smoke detectors. The

**Residential Heating and Cooling**

*continued from page 10*

based on the heating and cooling load calculations, Section M1401.3 of the 2009 IRC requires that ACCA Manual S be used to size equipment. Excessively oversized equipment causes short-cycling, and creates unnecessary stress on the equipment. Also, larger systems require larger duct sizes, increasing the installation cost. In areas where humidity is an issue, an oversized system will degrade the humidity control. A properly sized system will run almost continuously at design conditions, and provide the proper level of dehumidification during the cooling season.

<b>Municipality <sup>a</sup></b>	<b>Winter – Heating 99% Dry Bulb</b>	<b>Summer – Cooling 1% Dry Bulb</b>
Atlantic City	13	88
Long Branch	13	90
Millville	15	89
Newark	14	90
New Brunswick	10	89
Paterson	10	91
Phillipsburg	6	89
Teterboro	14	89
Trenton, McQuire AFB	15	90
Vineland	11	89

*a – In the event your municipality is not listed, please use the next closest.*

If you have questions about the enforcement of the Energy Subcode, please contact me at (609) 984-7609.

Source: Robert Austin  
Code Assistance



**Containment Systems**

*continued from page 12*

temperature in hot aisle containment areas can increase to the point where it approaches the temperature limits of the automatic detection equipment, which could affect the performance of fire protection systems. The installation of these containment systems in no case can obstruct the flow of gaseous agent systems or water spray systems and each containment system must be evaluated on a case by case basis.

The National Fire Protection Association (NFPA) Technical Committee has accepted new text, which will be added into NFPA 75, "Protection of Information Technology Equipment," to address these containment systems. These modifications will be included in the 2012 edition of NFPA 75 when it is published. Because the UCC does not have specific rules for the regulation of the installation of these systems, N.J.A.C. 5:23-3.6 or 3.7 can be used by the construction official and appropriate subcode officials to review these systems. The UCC does not reference NFPA 75, so a company that decides to install any type of hot or cold aisle containment system must supply all the applicable installation information showing compliance with this standard when they wish to use it.

The following are some of the factors to consider

*See Containment Systems at right*

**Containment Systems**

*continued from left*

when reviewing ITE proposed containment systems.

1. What type of material is the aisle containment system made of?
2. Will the installation effect the location and or type of the existing detection system?
3. Will the fire sprinkler or suppression system be affected?
4. Will the means of egress be affected (exit signs, emergency lighting or travel distance)
5. Will an additional fire extinguisher be required?

When a containment system is installed it must be treated as an obstruction, detection systems and suppression systems might need to be extended within the heat containment system enclosure.

If you have any questions, please feel free to contact Carmine Giangeruso, Office of Regulatory Affairs, at (609) 984-7672 or Michael E. Whalen, Code Assistance Unit, at (609) 984-7609.

Sources: Carmine Giangeruso, Office of Regulatory Affairs  
Michael E. Whalen, Code Assistance Unit

## Unvented Attic Assemblies

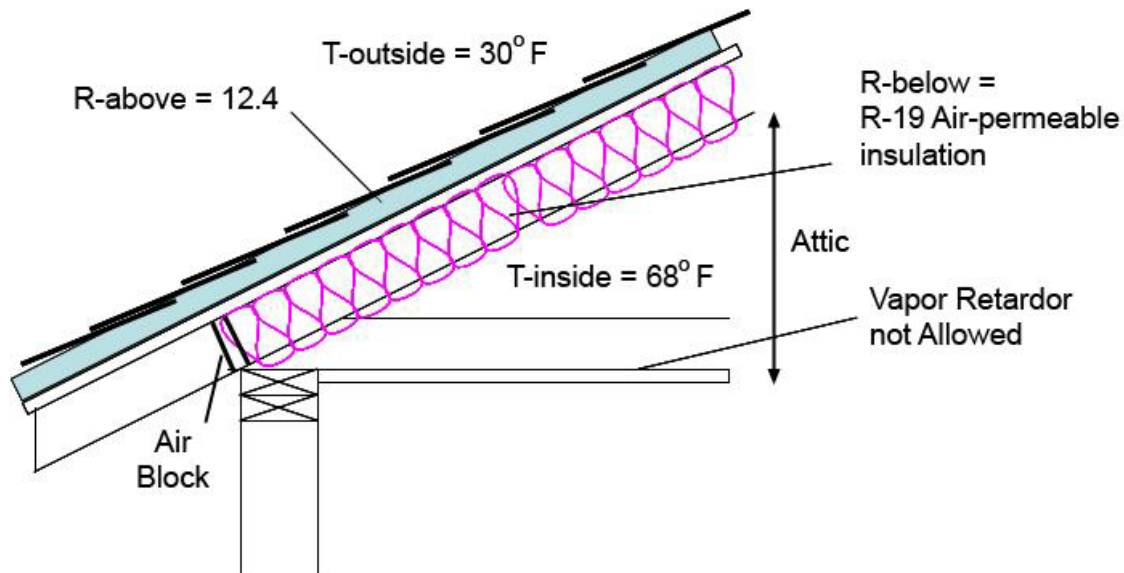
(Reprinted courtesy of the U.S. Department of Energy's Building Energy Codes Program, <http://www.energycodes.gov/help/notes.stm>)

Adequate attic ventilation is a long-standing requirement in building codes for moisture control. However, unvented attics can reduce residential energy needs, and are allowed by the code under certain conditions. Such assemblies are sometimes called cathedralized attics because, as with cathedral ceilings, the insulation is in the rafters and/or the roof deck. The primary benefit of cathedralized attics is the ability to locate HVAC ducts inside conditioned space, where duct leaks and heat losses or gains are not detrimental to the home's energy bill.

Section R806.4 of the 2009 International Residential Code (IRC) has five specific requirements for unvented (conditioned) attic assemblies; all criteria must be met. The overall insulation level in the roof assembly must meet the baseline requirements for energy efficiency as given in the 2009 International Energy Conservation Code (IECC), Section 402.

Additionally, there are requirements related to the arrangement of the insulation to prevent moisture condensation in the roof assembly. In New Jersey, the 2009 IRC requires air-impermeable insulation in direct contact with the underside of the roof deck. A combination of an air-impermeable insulation and air-permeable insulation directly below it is permitted.

Table R806.4 of the 2009 IRC sets the minimum requirements for minimum rigid board insulation (Zone 4 = R-15; Zone 5 = R-20) to be placed on top of the roof deck if air permeable insulation is installed in direct contact with the underside of the roof deck. The addition of the rigid board insulation will keep the monthly average condensing surface temperature at or above 45°F. Note that the additional rigid board insulation is not required if air impermeable insulation is installed in direct contact with the underside of the roof sheathing.



For example, the proposed building is located in Climate Zone 5. The minimum Ceiling R-value requirement based on Section 402.1.2 and Table 402.1.1 of the 2009 IECC is R-38. R-19 air impermeable insulation is proposed to be placed on the underside, and in direct contact, with the roof sheathing. Based on Table R806.4, R-20 rigid board insulation will be required to be placed on top of the roof deck to keep the condensing surface temperature at or above 45°F. The total insulation R-value for the assembly will be an R-39 (R-20 + R-19) which complies with the prescriptive requirements of the 2009 IECC.

attic floor of conditioned attics so that any moisture that may build up in the attic can dissipate into the house. If wood shingles or shakes are used, a ¼-inch air gap must be left above the roof sheathing, but below the shingles or shakes and roofing felt. Air-permeable insulation used in Climate Zone 5 shall be a vapor retarder, or shall have a vapor retarder installed in direct contact with the underside of the insulation.

If you have questions about the Energy Subcode, please contact me at (609) 984-7609.

Source: Rob Austin  
Code Assistance Unit

The 2009 IRC also prohibits a vapor retarder on the

**Zone 5 Walls**

*continued from page 5*

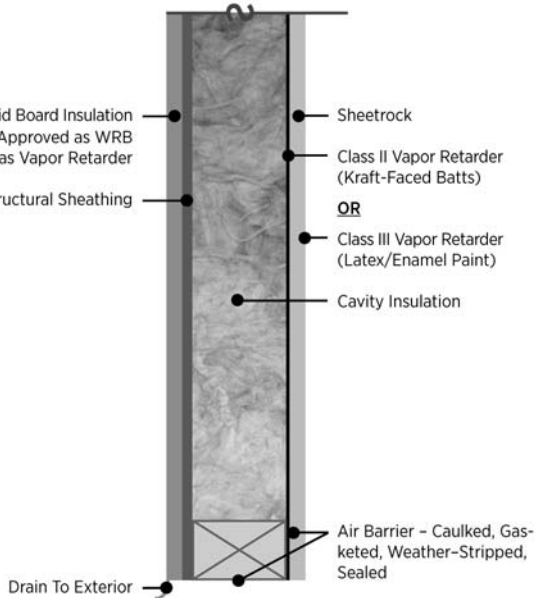
One of the properties typically associated with insulative sheathing is its high R-value per inch; rigid foam board is a good example. Different cell configurations, films, and other added features give the products specific characteristics that may allow the product to meet your needs for more than one function. However, one characteristic may be perfect for one application and totally unacceptable for another. Read the product data, carefully select the product for your application, and follow the manufacturer's installation instructions.

**Vapor Retarder Requirements**

The IRC requires a Class I or II vapor retarder on the interior side of frame walls in Zone 5, with the exception that a Class III vapor retarder is permitted if R-5 or higher sheathing is used.

**Water-Resistive Barrier (WRB)**

For Zone 5, the IRC requires exterior walls shall provide the building with a weather-resistant exterior wall envelope. This water-resistive barrier (WRB) can be one layer of No. 15 asphalt felt or other approved material (e.g., insulating sheathing approved as a WRB, house wraps) applied over studs or sheathing of all exterior walls. A properly installed and sealed closed-cell foam board sheathing typically is rated for use as a WRB, eliminating the expense of a dedicated water-resistive barrier product. WRB- approved products can be identified in the International Code Council-Evaluation Service (ICC-ES) Evaluation Reports ([www.icc-es.org](http://www.icc-es.org)). Concrete or masonry walls designed in accordance with Chapter 6 and flashed according to Section R703.7 or 703.8 are the exception to this requirement.

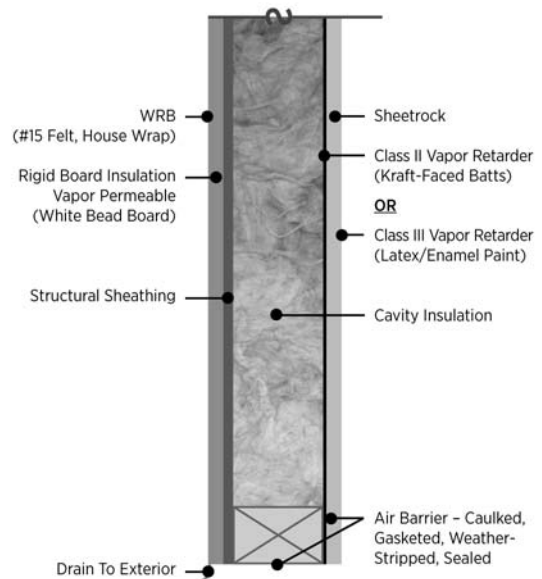


**2"X4" WALL SYSTEM  
W/RIGID BOARD AS WRB**

*See Zone 5 Walls at right*

**Zone 5 Walls**

*continued from left*



**2"X4" WALL SYSTEM  
W/VAPOR PERMEABLE,  
RIGID BOARD AND WRB**

**Air Sealing**

For Zone 5, the air barrier should be the innermost surfaces--the interior wall, ceiling, floor, etc. The building thermal envelope shall be durably sealed to limit infiltration. All joints, seams, penetrations and other sources of infiltration shall be caulked, gasketed, weather-stripped, or otherwise sealed with an air barrier material, suitable film or solid material. Air tightness and insulation installation shall be demonstrated to comply with either a blower door test option--after rough in and after installation of penetrations of the building envelope for utilities, plumbing, electrical, ventilation, and combustion appliances option--or a visual inspection option--field inspection and verification of the air barrier and insulation (see Bulletin 11-1 for more information).

**HVAC Equipment Efficiency**

No requirement

**2b – Performance Compliance Approach**

The 2009 IECC Chapter 4 Section 405--Simulated Performance Alternative--provides the ability to "trade-off" lower levels of insulation in the building envelope for increased levels of efficiency in other areas of the building. This approach can be used to demonstrate

*See Zone 5 Walls –page 16*

Zone 5 Walls

continued from page 15

compliance using 2x4 stud walls in a house and trading off the lower efficiency with increased efficiencies in glazing, reduced air leakage in the building envelope or reduced leakage in the duct system. For example, a home being designed for construction in Climate Zone 5 using 2x4 walls with R-13 insulation can take credit for reducing the air leakage in the house down from the required 7 ACH 50 to an air leakage value that will offset the energy use of the reduced wall insulation. Under this example, the building envelope would need to be tested to ensure that it did not exceed the air leakage rate modeled in performance software. Documentation would need to be provided to the jurisdiction demonstrating that the envelope met the requirements. Also, ventilation may need to be added to the house based on the targeted air leakage rate.

3 – Application

As an alternative, foam-in-place polyurethane or other foamed-in or blown-in cavity fill strategies may achieve Frame Wall assemblies with U-factors equal to or lower than the Table 402.1.3 Frame Wall Equivalent values. However, a continuous layer of foam insulating sheathing reduces thermal bridging through the studs and maintains temperatures sufficiently high to avoid condensation on the stud and in the stud cavity. Resources are better managed; a properly installed and sealed closed-cell foam board sheathing typically is rated for use as a WRB, eliminating the expense of a dedicated water-resistive barrier product. If you have questions about the Energy Subcode, please contact me at (609) 984-7609.

Source: Rob Austin  
Code Assistance Unit



## A Note about e-Mail Messages from the Licensing and Education Units

As we move further into the electronic age, the need to communicate by e-mail has become an indispensable and invaluable tool to get information out to the code enforcement community faster and more effectively.

This is especially true for our office. We try to send notices of special training opportunities and advance copies of our semester and conference brochures by e-mail. For the most part, we have found this to be very successful. However, we get many emails returned as “undeliverable” or rejected by mail servers that categorize our messages as spam.

To alleviate this, we would like you to add our e-mail addresses, [educationunit@dca.state.nj.us](mailto:educationunit@dca.state.nj.us) and [codeslicensing@dca.state.nj.us](mailto:codeslicensing@dca.state.nj.us), to your “safe senders list” or to your address book to be sure that our messages reach you.

If you have not received e-mails from us recently, that is likely the reason. If you want to be sure that we have your e-mail address, please feel free to send it to us, along with your name and license number; then add our e-mail addresses to your address book, as directed above.

If you have any questions, please feel free to contact us by e-mail or at (609) 984-7834.

Source: John Delesandro  
Supervisor, Licensing & Education



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Please direct any comments or suggestions to the NJDCA, Division of Codes and Standards, Attention: Code Development Unit, PO Box 802, Trenton, NJ 08625-0802.






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# Construction Code Communicator



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Department of Community Affairs  
 Richard E. Constable III, Commissioner

Volume 24, Number 2

Summer 2012

## The 31<sup>st</sup> Annual Building Safety Conference of New Jersey

The 31<sup>st</sup> Annual Building Safety Conference was held May 9<sup>th</sup> through 11<sup>th</sup> at Bally's Atlantic City. Our focus this year was on building new connections and welcoming new friends in our code enforcement community. We had a very successful conference this year with over 600 people in attendance to honor our inspectors and technical assistant of the year.

The kickoff event for the Conference, as always, was the "Crackerbarrel." We tried a new format wherein there were two rooms instead of one, with each room separated by similar areas of interest. This was intended to allow our guests a better opportunity to find presenters based upon areas of interest and help in providing a quieter atmosphere to be able to ask and have answered their questions by over 35 experts. The topics ranged the code enforcement spectrum from a brief overview of the newly adopted 2011 National Electrical Code to an examination of the requirements for gas piping systems.

The centerpiece of the Conference was, of course, the opportunity to recognize and honor those selected by their associations as Inspectors of the Year and as the Technical Assistant of the Year. We were very honored to have both Commissioner Richard E. Constable III and Director Edward M. Smith make the award presentations this year at the annual luncheon, along with the Presidents of the respective associations.

*See Building Safety Conference- page 2*

## Light Pollution and Municipal Ordinances

The Department of Community Affairs has received questions about the enforcement of a municipal ordinance addressing light pollution; a brief explanation might be helpful.











At N.J.A.C. 5:23-6.2(g)1i, the Rehabilitation Subcode states that "Exterior light fixtures that replace existing light fixtures shall comply with a municipal ordinance adopted to control light pollution." For a municipality with such an outdoor lighting ordinance for the replacement of existing fixtures, enforcement takes place through the Uniform Construction Code (UCC). The question that is asked is whether there is a UCC process for enforcement of a municipal ordinance for new lighting installations.

Municipal ordinances may cover only items that are not within the jurisdiction of the Uniform Construction Code (UCC). An ordinance establishing limitations on the intensity of exterior lighting would be such an ordinance. If a municipality were to make all exterior lighting installations subject to the outdoor lighting ordinance, the ordinance would be enforced as a prior approval.

The local code officials do not enforce prior approvals, but a permit may not be issued until the conditions of all prior approvals have been met. For a project involving exterior lighting, the municipal official

*See Light Pollution - page 4*

### In This Issue

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**Building Safety Conference**

*continued from page 1*

The following awards were presented:

**Building Officials Association of New Jersey**  
Building Inspector of the Year  
**Lawrence Scorzelli**

**New Jersey State Plumbing Inspectors Association**  
Plumbing Inspector of the Year  
**Thomas Walsh**

**New Jersey Fire Prevention and Protection Association**  
Fire Protection Inspector of the Year  
**James Mercready**

**Municipal Electrical Inspectors Association of New Jersey**  
Electrical Inspector of the Year  
**Edward Reed**

**New Jersey Association of Technical Assistants**  
Technical Assistant of the Year  
**Deborah Simone**

Congratulations to all for your hard work and dedication to the betterment of code enforcement here in New Jersey!

The Building Safety Conference is a terrific opportunity to broaden your knowledge of cutting edge code enforcement and building construction techniques, and also, to meet with officials from throughout the state to share ideas and promote camaraderie among our community. We hope to see you all next year at Bally's Atlantic City May 1<sup>st</sup> through 3<sup>rd</sup>, 2013. Please save the date!

Source: John Delesandro  
Supervisor, Licensing and Education



Above, NJPIA's 2012 honoree Thomas Walsh, (3<sup>rd</sup> l.), accompanied by NJPIA President William Olinger (2<sup>nd</sup> l.), DCA Commissioner Richard E. Constable III (l.) and Codes and Standards Director Edward M. Smith (r.).



Above, NJFP&PA's 2012 honoree James Mercready, (2<sup>nd</sup> l.), accompanied by NJFP&PA President Stanley Sickels (3<sup>rd</sup> l.), DCA Commissioner Richard E. Constable III (l.) and Codes and Standards Director Edward M. Smith (r.).



Above, BOANJ's 2012 honoree Lawrence Scorzelli, (2<sup>nd</sup> l.), accompanied by BOANJ President Thomas Pinand (3<sup>rd</sup> l.), DCA Commissioner Richard E. Constable III (l.) and Codes and Standards Director Edward M. Smith (r.).



Above, MEIA's 2012 honoree Edward Reed, (2<sup>nd</sup> l.), accompanied by MEIA President Jean F. Verrier (3<sup>rd</sup> l.), DCA Commissioner Richard E. Constable III (l.) and Codes and Standards Director Edward M. Smith (r.).

*See Building Safety Conference- page 3*

Building Safety Conference

continued from page 2

## Elevator Devices – Permits and Permit Updates



Above, NJATA's 2012 honoree Deborah Simone, (2<sup>nd</sup> l.), accompanied by NJATA President Linda Aiello (3<sup>rd</sup> l.), DCA Commissioner Richard E. Constable III (l.) and Codes and Standards Director Edward M. Smith (r.).



Above, Commissioner Constable, Director Smith and all 2012 honorees.



## High-efficiency Lighting In New Homes

(Reprinted courtesy of the U.S. Department of Energy's Building Energy Codes Program, <http://www.energycodes.gov/help/notes.stm>)

Lighting consumes more than 10% of electric energy used in homes, presenting a substantial opportunity for lowering residential energy consumption. The 2009 International Energy Conservation Code (IECC) requires that half of the permanent lighting in a new home have high-efficiency lamps.

See HE Lighting - page 6

The Elevator Safety Unit (ESU) has received a number of inquiries regarding Permit requirements for the installation of elevator devices; as you know, a Construction Permit or a Permit Update is the authorization to proceed with construction work, and one or the other is required before elevator work may begin.

It is important to understand that the Elevator Subcode Technical Sections (i.e., UCC-F150 and UCC-F155) themselves are not Permits nor are they Permit Updates; they are simply a part of an applicant's Permit application as is, for example, the Electrical Subcode Technical Section.

The following demonstrates how a Permit Update would apply to elevator devices during the construction of a new building containing an elevator. A Construction Permit application, including building plans and specifications, is submitted to the local enforcing agency.

- The submitted documents are reviewed for code compliance and released by the various subcode officials according to their responsibilities as outlined in N.J.A.C. 5:23-3.4.
- Plans are released, and a Permit (i.e., UCC-F170) issued, granting permission to perform *Building, Electrical, Plumbing and Fire Protection* work; the Construction Permit, however, does not authorize the installation of the elevator device(s).
- As part of the *Building* work authorized by the Permit, the elevator shaft, machine room and control room/space are also authorized to be built. The Permit, however, did not authorize the installation of elevator equipment; therefore, a Permit Update (i.e., UCC-F190) is required before the elevator equipment may be installed.
- To obtain the required Permit Update, elevator layout drawings, Elevator Subcode Technical Section(s), and, when applicable, an Application for a Variation (UCC-F160) must be submitted for the project, and must be reviewed and released by an Elevator Subcode Official. Upon release, a Permit Update allowing the installation of the elevator equipment is issued by the Construction Official at the local level.

**Without the Permit Update, the installation of elevator equipment is not authorized, and the elevator may not be inspected or approved for use.**

Questions about the Elevator Subcode may be directed to the Elevator Safety Unit at (609) 984-7833.

Source: Paulina Caploon  
Elevator Safety Unit

Light Pollution

Continued from page 1

charged with enforcing the outdoor lighting ordinance would be required to submit a letter to the construction official attesting to compliance with the ordinance before a permit could be issued. The letter would be required to state that (1) the plans and specifications for the exterior lighting have been reviewed and have been determined to comply with the outdoor lighting ordinance and (2) any changes to the outdoor lighting as presented on plans or specifications are required to be re-approved. This process is similar to the operation of a zoning approval as a prior approval.

Questions on prior approvals may be directed to the Code Assistance Unit at (609) 984-7609.

Source: Emily W. Templeton  
Division of Codes and Standards

### Notice to Fire Official: Roof-Mounted Photovoltaic Systems

A new code provision that takes effect July 16, 2012 requires the Construction Official to notify the local Fire Official when a permit has been issued for the installation of a roof-mounted photovoltaic system. The Construction Official must issue the notification in writing within 10 business days.

Photovoltaic systems present a special hazard for firefighters. This notice is intended to ensure that the presence of the system is known. This is a very important notification and it will allow the Fire Official to alert his local fire companies of the presence of these secondary power sources.

The adopted changes can be found at N.J.A.C. 5:23-4.5(h)1xx.

The new code provisions are found at the link below.

[http://www.nj.gov/dca/divisions/codes/codreg/pdf\\_rule\\_proposals/p2012\\_5\\_23\\_2\\_15.pdf](http://www.nj.gov/dca/divisions/codes/codreg/pdf_rule_proposals/p2012_5_23_2_15.pdf)

If you have any questions, please feel free to call me at (609) 984-7609.

Source: Michael E. Whalen  
Code Assistance Unit

### General Information Signs

The National Fire Protection Association (NFPA) now requires fire sprinkler systems that are installed in accordance with NFPA 13, *Installation of Sprinkler Systems*, to have "General Information Signs."

The installation contractor must provide permanent, general information signs that provide design information that is relevant to the inspection, testing, and maintenance requirements of NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*.

The signs must be weatherproof metal or rigid plastic and permanently marked. They must be installed with corrosion-resistant wire, chain, or other acceptable means and they must be placed at each system control riser, antifreeze loop, and auxiliary system control valve.

The signs shall include the following information:

- 1) Name and location of the facility protected
- 2) Presence of high-piled and/or rack storage
- 3) Maximum height of storage planned
- 4) Aisle width planned
- 5) Commodity classification
- 6) Encapsulation of pallet loads
- 7) Presence of solid shelving
- 8) Flow test data
- 9) Presence of flammable/combustible liquids
- 10) Presence of hazardous materials
- 11) Presence of other special storage
- 12) Location of auxiliary drains and low point drains
- 13) Original results of main drain flow test
- 14) Name of installing contractor or designer
- 15) Indication of presence and location of antifreeze or other auxiliary systems

This new sign requirement is in addition to the Fire Sprinkler Hydraulic Data Plate, UCC Form F380. This sign will provide additional information that will assist with maintenance inspections required by NFPA 25.

Following is a sample of the new general information sign that is required for all main risers, antifreeze systems or other auxiliary systems that are installed in accordance with the International Building Code (IBC)/2009 and NFPA 13. Some of the information will not be applicable to single riser residential systems, but the sign is required for all risers.



General Information Signs

continued from page 4

**FIRE SPRINKLER SYSTEM**  
**GENERAL INFORMATION SIGN**

NAME: ABC Corporation

ADDRESS: 101 Broad Street, Trenton, NJ 08652

HIGH PILED or RACK STORAGE: YES X TYPE: Double Row Rack

MAXIMUM HEIGHT OF STORAGE PLANNED: 28' 0"

aisle width planned: 8' 0"

COMMODITY CLASSIFICATION: High Hazard

ENCAPSULATION of PALLETS: No

PRESENCE OF SOLID SHELVES: No

FLOWTEST: Q = \_\_\_\_\_ GPM;      Static PSI: \_\_\_\_\_      Residual PSI: \_\_\_\_\_

PRESENCE OF FLAMMABLE/COMBUSTIBLE LIQUIDS: No

PRESENCE OF HAZARDOUS MATERIALS: Yes    TYPE: Level 3 Aerosols

PRESENCE OF OTHER SPECIAL STORAGE: Yes    TYPE: Idle plastic pallets

AUXILIARY or LOWPOINT DRAIN LOCATIONS: 1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

ORIGINAL MAIN DRAIN TEST: Static PSI: \_\_\_\_\_      Residual PSI: \_\_\_\_\_

REQUIRED SPRINKLER DEFLECTOR CLEARANCE: 36 inches

ANTIFREEZE SYSTEM: No    LOCATION OF SYSTEM: \_\_\_\_\_

AUXILIARY SYSTEMS: No    TYPE/LOCATION: \_\_\_\_\_

INSTALLATION/DESIGNER CONTRACTOR: 123 Fire Protection, Trenton, NJ 08652

If you have any questions, please feel free to call me at (609) 984-7609.

Source: Michael E. Whalen  
Code Assistance Unit

**Property Maintenance  
Ordinances**

The Division of Codes and Standards is conducting a review of local property maintenance ordinances and resale inspection ordinances whether applicable to single-family, multi-family or non-residential structures. We also are interested in change of tenancy ordinances that contain provisions requiring building upgrades or some form of compliance with one of the adopted subcodes of the UCC or a fire safety code.

See Ordinances at right

**Ordinances**

Continued from left

Please submit the ordinances to the Office of Regulatory Affairs at PO Box 818, Trenton, New Jersey 08625-0818. Ordinances may also be sent via e-mail to [susan.lydon@dca.state.nj.us](mailto:susan.lydon@dca.state.nj.us). If the municipality has no such ordinances, please respond and let us know this.

Should you have any questions, you may contact Susan Lydon of the Office of Regulatory affairs at (609) 984-7672. Thank you for your anticipated cooperation.

Source: Lou Mraw  
Office of Regulatory Affairs

**HE Lighting**

Continued from page 3

**Requirements**

Section 404.1 of the 2009 IECC states that a minimum of 50 percent of the lamps in permanently installed lighting fixtures shall be high-efficiency lamps. The IECC defines high efficiency in Section 202 as: 60 lumens/W for lamps over 40W; 50 lumens/W for lamps over 15W to 40W; 40 lumens/W for lamps 15W or less.

These efficiency minimums are above the level of current incandescent products. However, many compact fluorescent lamps, all T-8 or smaller diameter linear fluorescent lamps, and most metal halide lamps meet these requirements. A "lamp" is simply the light bulb or tube itself; it is not the fixture. So a chandelier is one fixture but may have many lamps.

The count is based on the number of lamps and includes both pin-based fixtures (fluorescent tubes and pin-based compacts) and standard screw-base fixtures. The provision applies to indoor spaces and outdoor facades of all residential buildings, including accessory structures and garages. The code permits up to 50% of the lamps to be of a standard efficiency, providing flexibility to allow lighting for certain applications that cannot be met with high-efficiency lamps.

**Benefits**

Compact fluorescent lamps (CFLs) have become more available and have dropped in price. A 60-watt replacement CFL can be purchased for about \$1.50 per lamp. CFLs use about 80% less energy than standard incandescent lighting and last 6 to 10 times longer. At \$1.50 per lamp with electricity at 9 cents per kwh, the payback time is less than two years, assuming that each light is on a half hour each day.

**CFLs offer versatile lighting solutions**

CFLs are available in a variety of shapes and sizes so they can be used in most areas of the home where standard incandescent lamps would be used. Their longer life makes them ideal for high ceilings and other hard-to-reach spots. Reflector CFLs are now available for recessed downlighting; the best models have passed Elevated Temperature Life Testing, lasting over 6,000 hours without failure (see [www.pnl.gov/rlamps](http://www.pnl.gov/rlamps)).

**Energy-efficient chandeliers**

While incandescent lamps have traditionally been used in chandeliers because of their ability to dim and their small size possibilities, dimmable high-

See HE Lighting at right

**HE Lighting**

Continued from left

efficiency CFLs designed for candelabra-sized sockets and other specialty applications are also readily available.

For more information on lighting, see the ENERGY STAR® web page.

**Plan Review**

- Verify that 50% of all lamps will be high-efficiency according to the count of lamps as shown on the plans. Confirm each lamp type's efficiency by requiring manufacturer's or independent test data for each lamp type indicating its efficiency rating. If the manufacturer or product packaging has only separate ratings for lumen output and wattage, simply divide the lumen rating by the wattage to get lumens per watt.

**Field Inspection**

- Inspect representative CFL lamps, linear fluorescents, and other lamps to ensure that at least 50% of all lamps are high-efficiency by comparing the installed lamp make/model number to the ones on the approved plans. Non-specified lamps should have efficiency rating information supplied at inspection.

**Code Citations**

(see "Requirements" above)

If you have any questions about the Energy Subcode, please contact me at (609) 984-7609.

Source: Rob Austin  
Code Assistance Unit

## Two Barrier Free Questions Answered

Two questions have recently arisen concerning two separate provisions of the Barrier Free Subcode. One is a requirement that is drawn from the Americans with Disabilities Act (ADA) and from the Barrier Free enabling legislation; the second deals with the scoping of the accessibility requirements in the Barrier Free/Council of Affordable Housing (COAH) low and moderate income housing law.

At N.J.A.C. 5:23-7.4(a)2, the Barrier Free Subcode requires that an elevator be provided in a building that is 10,000 square feet or more total gross enclosed floor area. There is an exception to this requirement for "floors that are less than 3,000 square feet or floors that

See Barrier Free –page 7



**Barrier Free**

*Continued from page 6*

contain only mechanical equipment.” The following theoretical question has arisen: Is a seven-story building with 2,999 square feet per floor required to have an elevator? The answer is No.

The second question deals with the scoping of the Barrier Free Subcode/COAH law for accessible affordable housing. It has come to the Department’s attention that there is some confusion as to whether this law applies only to townhouses and multistory dwelling units or whether it also applies to flats (single story dwelling units). At N.J.A.C. 5:23-7.5(a)1, the Barrier Free Subcode provides that “Multistory dwelling units, which are ground floor dwelling units and for which credit is sought for low and moderate income housing through the Council on Affordable Housing (COAH) and that are attached to at least one other dwelling unit, shall comply with the applicable provisions of this section.”

## Plain Old Telephone Service (POTS) to Managed Facility Voice Network (MFVN) Service

Many people are switching over from POTS to MFVNs. A new code provision that takes effect July 16, 2012 will make it easier for them to make the switch. Currently, when someone wishes to change their POTS line to a MFVN, they need a full permit.

The changes found at N.J.A.C. 5:23-2.17A, 4.18 and 4.20 allow MFVNs to be used without making the owner of a building apply for a full permit to change phone lines. A new verification form U.C.C. F391 contains a compliance checklist. This form must be completed by a licensed/certified alarm service provider and submitted to the Fire Protection Subcode Official of the Local Enforcing Agency within 24 hours of conversion.

The new form can be found on the Division of Codes and Standards webpage at <http://www.nj.gov/dca/divisions/codes/resources/constructionpermitforms.html>

The new code provisions dealing with this change are found at the link below.

[http://www.nj.gov/dca/divisions/codes/codreg/pdf\\_rule\\_proposals/p2012\\_5\\_23\\_2\\_15.pdf](http://www.nj.gov/dca/divisions/codes/codreg/pdf_rule_proposals/p2012_5_23_2_15.pdf)

The adopted amendments at N.J.A.C. 5:23-4.18(c)4

*See POTS to MFVN at right*

**Barrier Free**

*Continued from left*

The Barrier Free/COAH law was passed to ensure that townhouses and multistory dwelling units, which had become the most commonly constructed form of affordable housing, would be required to serve all New Jersey’s low and moderate income citizens, with or without disabilities. At N.J.A.C. 5:23-7.5(b), townhouses are exempt from the Barrier Free Subcode. The Barrier Free/COAH law created an exception to that exemption, which is codified at N.J.A.C. 5:23-7.5(a)1 and 6). Single story dwelling units, more commonly called “flats,” are required to be accessible when there are four or more dwelling units in a single structure (N.J.A.C. 5:23-7(a)). The Barrier Free/COAH law does not address flats.

If you have any questions on the Barrier Free Subcode, please contact the Code Assistance Unit at (609) 984-7609.

Source: Emily Templeton  
Division of Codes and Standard

**POTS to MFVN**

*Continued from left*

and 4.20(c)2iv(10) also set a minimum fee for the transmission line change.

If you have any questions, please feel free to call me at (609) 984-7609.

Source: Michael E. Whalen  
Code Assistance Unit

## Automatic Lighting Shutoff for Tenant Spaces

*(Reprinted courtesy of the U.S. Department of Energy’s Building Energy Codes Program, <http://www.energycodes.gov/help/notes.stm>)*

Automatic shutoff capability for all interior building lighting (with exceptions) is required by ANSI/ASHRAE/IESNA Standard 90.1-2007 (as well as previous versions back to 1999) for buildings over 5,000 square feet. The energy-saving intent of the requirement is to be sure that unnecessary lights are turned off, such as those not needed after the end of the business day. The requirement itself ensures that the control is available so that occupants can set up automatic shutoff of lighting.

*See Automatic Shutoff –page 8*

**Automatic Shutoff**

*Continued from page 7*

The requirement does have important exceptions including: lighting intended for 24-hour operation, lighting in spaces where patient care is rendered, and lighting in spaces where automatic shutoff would endanger the safety or security of the room or occupants. AHSRAE 90.1 considers sleeping units within hotels, motels, boarding houses, and similar buildings exempted under the 24- hour-operation exemption.

**The size threshold issue and tenant spaces**

The 5,000-square-foot threshold was originally included because of the potential impracticality and relative high cost of whole-building control systems for smaller buildings. This threshold is easy to apply for single-tenant buildings and for buildings with structured or uniform operating hours because the building schedule can be easily programmed into a whole building system that applies to the entire building.

However, some building types with multiple tenant occupancies do not lend themselves to practical application of whole-building control. One classic example is the typical retail strip mall. If a strip mall is over 5,000 square feet in total, the code language as written in the controls section technically requires complete automatic shutoff for the building as a whole. Because each retail business will typically have different operating schedules, it is difficult and often impractical to apply a whole-building control system.

Typically, individual tenant businesses (such as those in a strip mall structure) will have separate electrical feeds and firewalls between adjoining tenants, making them effectively separate business entities. In these cases, the whole building automatic shutoff is intended to be applied on a tenant business basis and those individual businesses less than 5,000 square feet would not have to comply with the automatic lighting shutoff requirement. The intent in ASHRAE 90.1 is to apply this requirement in a practical manner. ASHRAE 90.1 interpretations are likely to focus on the uniqueness of business schedules and separate electrical services in determining appropriate application of the 5,000-square-foot threshold.

**Plan Review**

- Verify that the lighting and/or electrical control plans specify controls to be installed that meet the provisions of the code, including the control area limitations. Check individual tenant space sizes for applicable exemption.
- Verify from the design submission (plans and specifications) that the control has appropriate

*See Automatic Shutoff at right*

**Automatic Shutoff**

*Continued from left*

scheduling capability in sufficient detail for the intended use of the space or building. An appropriate scheduling control should be capable of maintaining the type of day (weekday or weekend) and appropriate lighting schedule for that day type.

**Field Inspection**

- Verify that controls installed meet the capabilities and requirements as shown on the plans.
- Verify the automatic control device will shut off during the designated or programmed times as scheduled for each day of the week.

**Code Citation**

ASHRAE Standard 90.1-2007, Section 9.4.1.1, Automatic Lighting Shutoff

Interior lighting in buildings larger than 5000 ft<sup>2</sup> shall be controlled with an automatic control device to shut off building lighting in all spaces. This automatic control device shall function on either:

1. a scheduled basis using a time-of-day operated control device that turns lighting off at specific programmed times--an independent program schedule shall be provided for areas of no more than 25,000 ft<sup>2</sup> but not more than one floor,
2. an occupant sensor that shall turn lighting off within 30 minutes of an occupant leaving a space, or
3. a signal from another control or alarm system that indicates the area is unoccupied.

The following shall not require an automatic control device:

1. Lighting intended for 24-hour operation,
2. Lighting in spaces where patient care is rendered, and
3. Lighting in spaces where an automatic shutoff would endanger the safety or security of the room or building occupant(s).

If you have questions about the energy subcode, please contact me at (609) 984-7609.

Source: Rob Austin  
Code Assistance



## Dept. of Labor: The Removal of Asbestos Containing Material

It has come to the attention of the Department of Labor that there is some misinformation surrounding renovations and demolitions involving asbestos containing materials (ACM). Navigating the maze of federal and state asbestos regulations can leave even the most conscientious contractor dazed and confused. In order to avoid problems, for each project, the contractor should answer some basic questions in order to determine which regulations are applicable.

It is the **contractor's responsibility** to determine whether the project involves the disturbance of asbestos containing material (ACM) before proceeding with work. Any material containing more than 1% asbestos meets the regulatory definition of ACM. If the contractor is working with more than 3 linear feet or 3 square feet of ACM, then the project falls within the jurisdiction of the New Jersey Department of Labor and Workforce Development (DOL). The removal or repair of ACM during such projects must be completed by a licensed asbestos abatement contractor. The demolition of a structure containing ACM also falls within the jurisdiction of DOL since the ACM is disturbed during the demolition process.

DOL regulations focus on the quantity, not the quality, of ACM. There is no distinction between friable and non-friable ACM in determining whether DOL regulations apply. The DOL regulates both friable ACM and non-friable ACM.

There are a few very limited exceptions to the DOL licensing requirement. One of those exceptions involves asbestos containing roofing and siding materials in renovation projects. The removal of asbestos containing roofing or siding in a **rehabilitation project** is not regulated by DOL and, therefore, does not require a licensed asbestos abatement contractor. However, it is important to note that the removal of asbestos containing roofing or siding **must be completed by a licensed asbestos abatement contractor if the structure will be demolished.**

*See Asbestos at right*

### Asbestos

*Continued from left*

In addition to DOL regulations, a contractor must be concerned with federal regulations (National Emission Standards for Hazardous Air Pollutants, which applies to residential buildings with 5 or more dwelling units and commercial buildings involving the stripping or removal of at least 160 square feet or 260 linear feet of regulated ACM), Occupational Safety and Health Administration (OSHA) requirements, New Jersey regulations for asbestos projects in educational facilities and public buildings (Asbestos Hazard Abatement Subcode of the Uniform Construction Code) and New Jersey Department of Environmental Protection regulations pertaining to the transport and disposal of ACM. DOL regulations can be found at N.J.A.C. 12:120, Asbestos Licenses and Permits. (Exceptions and exemptions can be found at N.J.A.C. 12:120-1.4 and N.J.A.C. 12:120-4.2).

Code enforcement officials should be aware that at N.J.A.C. 5:23-8.6, the Asbestos Hazard Abatement Subcode, requires that before work may be undertaken in an existing building or before a building may be demolished, a certification must be provided by the architect, engineer, or contractor specifying the extent to which ACM will be disturbed. If ACM will be disturbed, an assessment by the New Jersey Department of Health (DOH), local or county health department, or a private business authorized by DOH to perform an assessment is required before a permit may be issued for the rehabilitation or demolition project. Obtaining the DOH assessment and ensuring that, where required, the work will be performed by a licensed DOL contractor is a prior approval before a permit may be issued for a rehabilitation or demolition project in which ACM will be disturbed.

For further assistance on the DOL contractor licensing requirements, please call DOL at (609) 633-2159. For assistance on code enforcement, please contact Jim Amici of the Bureau of Code Services at (609) 633-6224.

Source: Tom Voorhees  
Department of Labor

James Amici  
Bureau of Code Services

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Please direct any comments or suggestions to the NJDCA, Division of Codes and Standards, Attention: Code Development Unit, PO Box 802, Trenton, NJ 08625-0802.

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Fall 2012

## Plan Release with Conditions

On November 5, 2012, the adoption of a new rule, plan release with conditions, was published in the *New Jersey Register*. It is effective immediately. This article seeks to provide a brief explanation for the development of this rule and then a summary of the changes it makes.




















**Background:** The Department had received complaints about the lack of predictable timeframes in rehabilitation projects, particularly in tenant fit-outs upon a change of tenancy. The lack of predictability in timeframes meant that business owners and project managers could not provide an accurate move-in timeframe for their tenants or clients. In response to the concerns that were expressed, the Department formed a small working group. Serving on it were representatives of the business community, property managers, design professionals, and code enforcement officials. The focus of the small working group was to devise a process to provide predictability in the plan review process for changes of tenancy, including those changes in tenancy that involve construction projects. Upon discussion, it was found that the plan review process is extended by multiple revisions of the plans to ensure that the released

drawings demonstrate code compliance. The initial plan review period, by statute, is 20 business days. The period for re-review is seven business days. The business professionals in the group asserted that they want the protection afforded by the plan review, but they are repeatedly frustrated in their efforts to give their clients accurate move-in dates because they could neither predict nor control the number of re-reviews of the plans that might be required.

**Solution:** The solution that gained the consensus of the small working group was a process that would allow for “plan release with conditions.” It is that process that has been adopted as an amendment to the Uniform Construction Code.

**Plan Release with Conditions—Process:** This rule amendment, plan release with conditions, would provide that, at the end of the 20-day plan review period, the plans for alteration or reconstruction projects in Groups B (Business), F (Factory), M (Mercantile), or S (Storage) would be released with a list of conditions specifying code deficiencies,

See *Plan Release with Conditions* - page 2

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**Plan Release with Conditions**

*continued from page 1*

enumerating deferred submittals, and listing pending prior approvals; the list of conditions will include a timeframe for the submittal of the corrections. If revised drawings are required in order to perform the inspection, a timeframe for their submittal must also be included in the list of conditions. Substantially deficient plans (plans that cannot be used to determine code compliance upon inspection) are not eligible for release with conditions. Upon written acceptance of the conditions by the permit applicant and once all prior approvals have been obtained, the permit is issued. The enforcing agency is required to send a copy of the list of conditions to the design professional of record. Code compliance will be determined at inspection. To facilitate inspections, the list of conditions must be attached both to the plans that are retained on site and to the plans that are retained by the enforcing agency.

This “plan release with conditions” process does not apply to a project involving a change of use or change in the character of a use. The rehabilitation subcode addresses a change of use through a hierarchy of hazards in which the increase in hazard associated with the proposed change is evaluated on an item-by-item basis and specific code requirements result. Such a project could not be reasonably addressed through plan release with conditions. For the same reason, a change of character of use, in which the use designation of the building does not change, but the intensity of the use changes, could not be reasonably addressed through plan release with conditions. So, change of use and change of character of use were omitted from this amendment.

A bulleted summary follows:

The regulatory amendment is at N.J.A.C. 5:23-2.16—Construction permits-procedure, titled:

Exception: Plan Release with Conditions and Issuance of Permit.

- This procedure applies to rehabilitation work in Groups B, F, M, or S; it does not apply to a change of use or to the change in the character of a use.
- Following a plan review by all applicable subcode officials, unless the plans are so deficient as to make determining code compliance through inspections impossible, plans will be released with a list of conditions attached identifying any deficiencies in code compliance and also identifying information that must be provided either before the permit can be issued (such as prior approvals) or during the course of the work (such as sprinkler shop drawings).
  - To ensure that the deficiencies have been corrected at the time of inspection, a timeframe for providing the corrections or

*See Plan Release with Conditions –continued at right*

**Plan Release with Conditions**

*continued from left*

the missing information must be specified in the list of conditions.

- Revised drawings may be required before the Certificate of Approval or Certificate of Occupancy is issued. A timeframe for receipt of the revised drawings must be established in the conditional plan release. Issuance of a temporary certificate of occupancy (TCO) will be in accordance with N.J.A.C. 5:23-2.23(g).
- Upon written agreement of the permit applicant (owner or owner’s agent) to the list of identified deficiencies and to their correction during the course of work, the construction official will act on the permit application. The local enforcing agency will forward a copy of the conditions to the design professional of record.
- Upon inspection, if the deficiencies identified as conditions of the release have not been corrected, the work must be corrected; it will then be reinspected.
- Upon inspection, if the scope of the work has changed and work is found that was not included in the permit application, the standard UCC process, including issuing a stop work order and penalties will be followed.

The Department is looking into offering training on this process. In the meantime, questions should be directed to the Code Assistance Unit at (609) 984-7609.

Source: Emily W. Templeton  
Division of Codes and Standards

## **UCC-F160, Application for a Variation Continues to be a UCC Standard Form**

As many of you may have noticed by now, an error occurred in the July 16, 2012 Code Update, specifically with the printing of page 23-64.2, which begins section 5:23-4.5, Municipal enforcing agencies –administration and enforcement.

In (b)2, the form, “F-160 Application for a Variation” was inadvertently dropped from the table of standardized forms. This is a printing error.

UCC-F160, the Application for a Variation, remains a part of the UCC Standard Forms complement. The printing error will be corrected as soon as is practicable.

Source: Berit Osworth  
Division of Codes and Standards

## Counting Houses

Most technical assistants and construction officials know building permits are an important source of statistical information. They are one of the few data sources available by municipality every month.

One of the more significant indicators from building permits is the number of new houses. Housing data help economists gage trends in an important sector of the construction industry. They also are used by school administrators, utility companies, planners, and others to identify emerging settlement patterns.

Counting new houses sounds simple, but it's not, and recent construction trends make it harder. This article discusses pitfalls and how to avoid them.

Quacks like a duck: Dwellings were once easy to count. Kitchens are a good clue. So are separate entrances. The units also must be intended for long-term stays of at least 30 days.

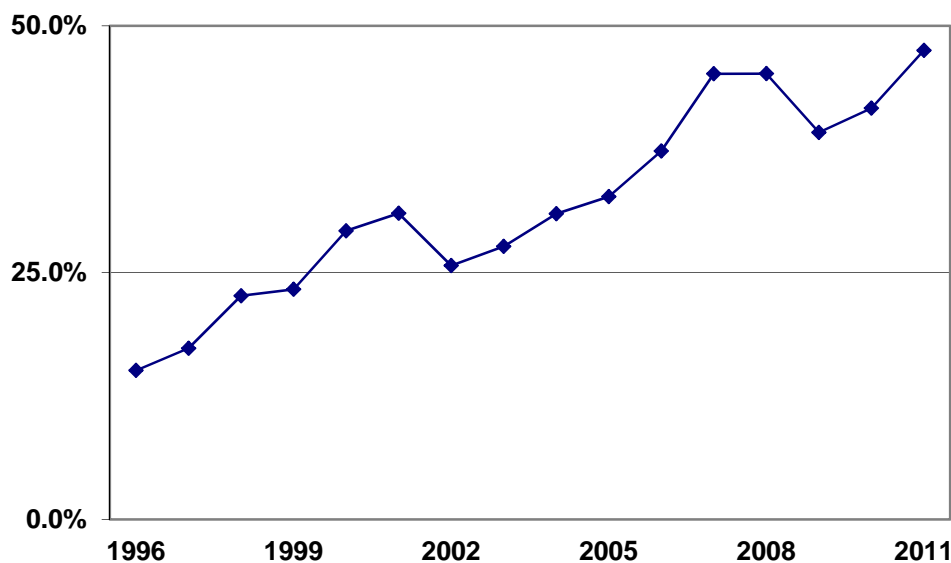
Today's houses can be harder to spot. Time-share apartments and extended-stay suites look like dwellings, but they're not. Occupants can stay for short periods of time. They are like hotels; technical assistants and construction officials generally *don't report them as dwellings*. But, length of stay or occupancy is not always a defining feature. After all, a seldom-used vacation house is still a dwelling, so is a spec house that is not sold or rented.

Nursing home room or elderly apartment: Another important trend is the growth in elderly housing. Age-restricted shelter varies. Residents who need medical care may live in nursing homes or hospitals. *Like hotel rooms, nursing home rooms are not dwellings*. Some elderly housing, however, are for people who can live more independently. These units may be connected to nursing homes but look more like small apartments. Residents come and go as they please. They buy groceries and cook meals. *Because these units look and function more like apartments, technical assistants and construction officials report them as dwellings*.

Delta House: Blurred boundaries also occur with college housing. *Dormitories, like hotels, generally have rooms, not dwellings*. Some colleges and universities have started to build housing that looks like town houses. These units have kitchens, separate entrances, and parking. Technical assistants and construction officials have correctly reported them as dwellings.

Hello neighbor: In 1996, a little more than 15 percent of all new houses authorized for construction in New Jersey were in buildings with other residential units (multifamily housing) or in mixed-use buildings with office, retail, and other nonresidential uses. In 2011, the proportion was 47.5 percent.

**Multi-Family & Mixed-Use Housing as a Percentage of All Authorized Housing, 1996-2011**



Houses

continued from page 3

Today's multifamily buildings are complex. They often have garages, gyms, and other common areas. Many are built and occupied in phases, over several years. Some construction offices issue separate permits for each dwelling. Generally, this is bad practice. If reporting software does not allow the issuance of multiple COs from a single permit, treat the units as fit ups, alterations for nominal work. (See in the spring 2008, volume 20, and issue 1 *Construction Code Communicator* article "Multiple Permits for Multiple Units Mean Multiple Mistakes.")

**Mixed-use Buildings:** A related trend is the increase in housing in buildings with office, retail, and other commercial uses. Let the Census Bureau know if the newly constructed, mixed-use building has dwellings. Construction officials and technical assistants must use the proper item numbers. These are summarized below:

Item numbers for the U.S. Census	
Census Item Number	Number of housing units
101	1
103	2
104	3 or 4
105	5 or more

Users of **PermtisNJ** must be mindful of the sequence they use to report building use. If the mixed-use building has housing, report the residential use first. Otherwise, the dwellings go undetected by the Census Bureau. Nonresidential uses reported first automatically trigger a '999' item number. This tells Census Bureau to ignore the permit and results in the agency missing housing it should count.

**False starts:** Tough economic times can muddy the waters. This can lead to confusion about the number of authorized houses. Construction officials sometimes must cancel or suspend work on a permit. This does not mean the information reported earlier was wrong and needs to change. A permit issued last year for ten new dwellings does not have to be corrected because the applicant goes bankrupt this year. The number of dwellings gets counted when permits are issued. *If and when* the project gets certificates of occupancy, the dwellings are reported and counted again as certified housing units. Both measures provide important information.

A *firewall* exists between municipalities and the U.S. Census Bureau and the New Jersey Department of Community Affairs. This security measure makes it difficult to change building permits once sent. Any changes other than normal updates are flagged and

Houses

continued from left

don't reach either agency. Occasionally, municipalities must void permits or make changes other than those allowed by permit updates. To do so, call or e-mail DCA staff, either Charlie Pierson, Jr. or me.

In sum,

1. Authorized housing, the number of dwellings authorized by building permits, is an important economic and demographic indicator, one of the few available for every locality, every month.
2. Both the U.S. Census and the New Jersey Department of Community Affairs publish monthly statistics on new dwellings authorized for construction.
3. Generally, a dwelling is a residential unit with a kitchen and separate entrance; it is intended for long-term use of 30 days or more.
4. Hotel rooms, time-shared units, extended stay suites, and most dormitory rooms usually are not dwellings, but age-restricted units that let residents live in a setting more like apartments rather than nursing homes are.
5. Recent building trends have made it harder to count housing.
6. One trend is the growth in apartments, condominiums, and other multi-family housing.
7. A related trend is an increase in buildings where housing shares space with office, retail, or other nonresidential uses. Use the proper item number to report mixed-use housing; otherwise, the Census Bureau will not be notified of these new units.
8. Be careful when you issue multiple permits for multiple housing units in a single building. Don't over count.

Many changes can be handled with permit updates. If you need to make other changes, remember there is a firewall between construction offices and the Department of Community Affairs. After permits are transmitted, you must notify DCA of any changes other than normal permit updates.

If there is are questions about whether something is a dwelling or not, call John Lago or Charlie Pierson, Jr. at (609) 292-7898.

Source: John Lago  
Division of Codes and Standards





## Corrugated Stainless Steel Tubing: A Letter from the Board of Examiners of Electrical Contractors

Dear Mr. Smith:

It has recently been brought to the attention of the NJ Board of Examiners of Electrical

Contractors ("the Board") that code officials in some municipalities are demanding that electrical contractors install the bonding jumper for CSST installations, as required by the IRC/2009 and the IFGC/2009.

Apparently, this is occurring even when the electrical contractor was not under contract to perform any work related to the installation of the equipment and/or CSST installed. In considering the number of questions received by the Board related to this subject, and in context with the Board's authority and jurisdiction of licensing electrical contractors, the Board would like to advise the Department of Community Affairs of its position with respect to the installation of the bonding jumper for CSST installations.

The Board's enabling statute requires generally that anyone that advertises or enters into, or engages in the work or business as an electrical contractor must first obtain a license and business permit from the Board (NJSA 45: 5A-9). The term "electrical contractor" means a person who engages in the business of contracting to install, erect, repair, or alter electrical equipment for the generation, transmission, or utilization of electrical energy (NJSA 45:5A-2(d)).

The statute also exempts from licensure any work with a potential less than 10 volts (NJSA

45:5A-18(j)

Accordingly, the Board has reasoned that CSST is not electrical equipment that would require installation by an electrical contractor. Its purpose is not to generate, transmit, or utilize electrical energy but rather generally to supply gas to utilization equipment. Additionally, a bonding jumper, consisting of an appropriate conductor and its related clamp(s) used as a grounding electrode conductor to bond the CSST gas piping system to the electrical service grounding electrode system has a potential of less than 10 volts; its purpose being to maintain a potential of zero volts, or ground potential throughout the system. Consequently, the Board's position is that a license and business permit issued by the Board is not necessary to install a bonding jumper on a CSST gas piping system to the electrical service grounding electrode system; provided such work does not include the intrusion into any other

See Letter- page 6

## Who Can Install the "Electrical Bond" for CSST Gas Piping?

I am sure that by now the question from the title above has reared its ugly little head regarding the corrugated stainless steel tubing (CSST) gas piping electrical bond per Section 310.1.1 of the International Fuel Gas Code/2009 and Section G2411.1.1 of the International Residential Code/2009. Well, resolution was gotten at the April 4, 2012 Business Meeting of the Board of Examiners of Electrical Contractors (Public Session). On page 5 of the minutes of the Board of Electrical Contractors, the Board reviewed the Spring 2011 *Construction Code Communicator* article regarding the installation of CSST gas piping. Here is their conclusion on who may install the bond.

"Motion was made and seconded, and unanimously passed, **that although a New Jersey licensed electrical contractor is the most qualified person to perform the bonding, the Board's position that it is not required that a licensed electrical contractor install the bonding clamps and conductor provided that the connection to the grounding electrode system is outside the service enclosure**; i.e. to the electrical system grounding electrodes with the appropriate ground clamp, to the foundation rebar when the electrical system employs a Ufer-ground, to the electrical system grounding electrode conductor if it is of sufficient size, to other grounding electrodes (lightning) if integrated with the electrical system, or copper water pipe if it serves as primary grounding electrode. The Board notes that this position is applicable only for installations required to be inspected and are inspected per the State Uniform Construction Code."

*NOTE: The minutes of the Board of Electrical Contractors are posted at:*

[http://www.njconsumeraffairs.gov/electric/minutes/elecmin\\_040412.pdf](http://www.njconsumeraffairs.gov/electric/minutes/elecmin_040412.pdf)

Therefore, the bond required by the above sections does not require a licensed electrical contractor to install the bonding clamps and conductor provided that the connection to the grounding electrode system is outside the service enclosure. This means that the person installing the gas piping, typically a master plumber (residential and non-residential), mechanical contractor (non-residential) or home improvement contractor (residential), may install the bond per Sections 301.1.1 or G2411.1.1 without also being licensed as an electrical contractor.

If you have questions, please contact the Code Assistance Unit at (609) 984-7609.

Source: Rob Austin  
Code Assistance Unit

Letter

continued from page 5

electrical equipment such as electrical panels, switchgear, junction boxes, lighting fixtures, disconnect switches, transformers, etc. to facilitate the installation of the bonding jumper. In view of the foregoing, the Board posits that code officials within the various enforcement agencies established pursuant to the NJ Uniform Construction Code Act (UCC), may issue an electrical sub-code permit for the installation and inspection of CSST gas piping and the installation and inspection of its mandated bonding jumper, to persons that have not obtained a license or business permit from the Board; (i.e. the plumbing contractor, mechanical contractor, or other entity performing the CSST installation work).

Thus, to the extent code officials are relying upon the necessity of the contractor to be licensed by the Board in order to issue an electrical sub-code permit to perform and inspect the CSST bonding work, the Board requests that they be advised, perhaps via the "Construction Code Communicator" that such is not necessary, except as noted herein above. (NOTE: This is not to suggest that bonding is not electrical work subject to the provisions of the National Electrical Code, rather, and only with respect to CSST, it is electrical work that may be performed without first obtaining a license and business permit issued by the Board.) Accordingly, code officials may find it more effective and efficient to require the person (e.g. plumbing or mechanical contractor) seeking the UCC permit(s) to install, replace, or repair, as the case may be, the CSST and/or the equipment or appliance to which it is connected, to be the person responsible for the installation of the bonding jumper. Hence, that person also would be responsible for obtaining the permits and inspections required thereof pursuant to the UCC, rather than demanding that an electrical contractor licensed by the Board but having no contract for, or involvement with the installation of the CSST, being required to subsequently install the bonding jumper.

Thank you for your assistance in this matter.

Sincerely,

Joseph P. Schooley, Chairman  
 Board of Examiners of Electrical Contractors



## Cost Estimates

The presidents of the construction officials' and subcode officials' associations have asked the Division to provide clarification on whether local enforcing agencies may ask for additional documentation when it is obvious that the cost estimate provided is extremely low.

The State's fee schedule provides a mechanism to deal with such a situation. N.J.A.C. 5:23-4.20(c)2i(2) allows the State to request additional documentation for cost per thousand projects in the form of a design professional's estimate, if available, estimating form, or by the contractor of record. The Department does not object to local enforcement agencies utilizing this section of the regulations for good cause. But the Department cautions that it may not be used as a policy for every project submitted to a municipality, and should not be applied when homeowners are doing their own work and there is no contractor. In this situation, I recommend that you let the homeowner know about the provisions of N.J.A.C. 5:23-2.15(a)4, which require that any labor or materials provided at no cost shall be estimated at its normal or usual costs. Most homeowners have no idea that their labor and/or free materials must be accounted for. The Uniform Construction Code (UCC) does not, and code enforcement officials should not, require a homeowner to hire a cost estimator or a design professional for this purpose. It's an unnecessary expense for the consumer and it is a bad business practice that will only lead to complaints being submitted to your administration and/or my office. In these tough times, we should not add impediments to the construction code enforcement process.

If the homeowner has a contractor and you believe that the estimate is unreasonably low, you may ask for a copy of the contract; however, this should not be standard practice. Bear in mind that Bulletin No. 94-3, Permit Documentation, states that items for which no permit is required must be excluded from the total cost of the calculations for the permit fee.

Under no circumstances is any code enforcement official to change an estimated cost and charge a permit fee that you believe is appropriate. One code official did this and was arrested for falsifying public records. Reject the application. Ask for additional documentation.

We expect you to use common sense and good judgment and only use this tool when there appears to be an obvious issue.

If you have any questions, please contact the Office of Regulatory Affairs at (609) 984-7672.

Source: Louis Mraw  
 Office of Regulatory Affairs

## Air Admittance Valves are Allowed!!

As we all know, the use of air admittance valves (AAV) has been a hot topic. In Appendix E, "Special Design Plumbing Systems" (E.8), the National Standard Plumbing Code (NSPC)/2009 allows the installation of AAVs when the system is designed by a licensed design professional.

The following are two excerpts from the New Jersey State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) pertaining to the use of new products in construction:

N.J.S.A 52:27D-120.a, Purpose, states: "To encourage innovation and economy in construction and to provide requirements for construction and construction materials consistent with nationally recognized standards."

N.J.S.A. 52:27D-120.d states: "To eliminate restrictive, obsolete, and conflicting and unnecessary construction regulations that tend to unnecessarily increase construction costs or retard the use of new materials, products or methods of construction, or provide preferential treatment to types or classes of materials or products or methods of construction."

The International Code Council (ICC) Evaluation Service (ES) report PMG-1025 was recently revised (July 27, 2012) and now specifies that AAVs that are in compliance with the listed standards are deemed to be in compliance with the NSPC/ 2009 and 2012. The standards are: ASSE 1050-2009, Performance Requirements for Stack Air Admittance Valves for Sanitary Drainage Systems, ASSE 1051-2009, Performance Requirements for Individual and Branch Type Air Admittance Valves of Sanitary Drainage Systems – Fixture and Branch Devices and NSF Standard 14-2010, Plastic Piping System Components and Related Materials.

N.J.A.C 5:23-3.7, Municipal approvals of alternate materials, equipment, or methods of construction, **requires** the enforcing agency to approve materials, equipment, or methods of construction that are approved by ICC ES reports. Therefore, AAVs that comply with the standards listed in the ICC ES report are permitted to be used in one- or two-family dwellings and Class III structures without a design professional's seal. This does not apply to any Class I and Class II commercial projects, which require a design professional's seal under the Building Design Services Act.

AAVs must be furnished and installed in compliance with NSPC Appendix E.8, the ICC ES report, and the manufacturer's installation instructions.

Should you have any questions, you may contact me at (609) 984-7609.

Source: Thomas C. Pitcherello  
Code Assistance Unit

## Do I Really Need the Name of the Contractor to Perform a Plan Review?

The Department has received an influx of phone calls from design professionals and building owners asking why the contractor's name is being required by local enforcing agencies with the initial permit application. The answer to this question is . . . it's not.

N.J.A.C. 5:23-2.15(b) requires the specific information to be provided on any application for a construction permit when such information is available, but not later than the commencement of work. The name and license number of the contractor is included in this list.

The name and license number of the contractor is required to be provided no later than the commencement of work. SO, applying some common sense to this rule, being that the commencement of work typically coincides with the issuance of the construction permit, it would be appropriate to wait until the contractor's name and license number is provided to issue the permit. However, this should NOT hold up the plan review on the project.

If you have any questions regarding this, please feel free to contact me.

Source: John N. Terry  
Division of Codes and Standards

## Items to Consider When Finishing a Basement

So, you want to finish your basement in a single-family home. In the process, you are creating a room to hide those unsightly existing mechanicals. What does this mean in terms of their operation? Well, for starters, consult the Rehabilitation Subcode (N.J.A.C. 5:23-6) and see what requirements of the referenced model codes apply.

The work described above is an alteration (as defined at N.J.A.C. 5:23-6.3, Definitions), so N.J.A.C. 5:23-6.6, Alterations, is the starting point. The enclosure being created around the existing mechanicals may or may not be detrimental to the combustion air. In short, this means that this new enclosure must provide openings to have the proper combustion air.

N.J.A.C. 5:23-6.6(i) requires that the materials and methods (at N.J.A.C. 5:23-6.8, materials and methods) are to be met for compliance. Specifically, N.J.A.C. 5:23-6.8(h)13 and 20 reference the combustion air requirements from the International Residential Code (IRC)/2009, Chapter 17 for oil/electric and Chapter 24 for gas equipment/appliances.

Other non-mechanical items to consider in this sort of  
*See Basement- page 8*

**Basement**

*continued from page 7*

alteration, include, but are not limited to:

- N.J.A.C 5:23-6.6(e)10iii--When finished space is created in previously unfinished space, receptacle and lighting outlets shall comply with Sections 210.52 and 210.70, respectively, of the electrical subcode.
- N.J.A.C 5:23-6.6(e)14--When the work being performed creates or exposes wood framing of any wall, floor, ceiling, or roof, fireblocking shall be provided as required by section R302.11 of the one- and two-family dwelling subcode.
- N.J.A.C 5:23-6.6(e)15--When the work being performed creates or exposes the framing of any wall, floor, or ceiling assembly that is part of the building thermal envelope (encloses conditioned space), any accessible voids in insulation shall be filled using insulation meeting the R-values in Table 402.1.1 of the residential energy code. Of course, in the event that insulation meeting the R-values above cannot be installed due to space constraints, insulation that fills the cavities of the framed assembly shall be installed.

As another example, when the mechanicals are being replaced in the same location, they are categorized as a renovation if the replacements are of the same BTU output. Since the "hazard" has not changed, the existing chimney size should be acceptable, assuming the chimney itself is in good condition and the replacement equipment efficiency rating doesn't require resizing. This would be consistent with N.J.A.C. 5:23-6.5(c) where it states in part, "The replacement of fixtures, equipment or appliances shall not increase loads on these systems unless the system is upgraded in accordance with the applicable subcode of the UCC to accommodate the increased load."

NOTE: If it is discovered that work was done before obtaining a permit, apply Bulletin 06-1, Work Performed Without Permit.

If you have any questions, please call the Code Assistance Unit at (609) 984-7609.

Source: Rob Austin  
Division of Codes and Standards

## Underwriters Laboratories Provides Informational Warnings



Underwriters Laboratories (UL) posts important notices concerning safety, alerts about product hazards, counterfeit products, and other potential hazards. Often these notices deal with products that are subject to UCC requirements. As examples: Smoke alarms, oil fired furnaces, fire sprinkler pipe

*See Warnings -continued at right*

## Bulkheads, Piers and the Uniform Construction Code

There have been a number of inquiries on whether a permit is required to construct a bulkhead or pier. An article on this subject was published in the *Construction Code Communicator*, Winter 2001 (Volume 13, Number 44, page 2). For the convenience of code users, that article is being reprinted and revised; its references are updated and an example is added for clarity. The article follows:

There are no technical standards adopted under the Uniform Construction Code (UCC) for bulkheads and piers; therefore, UCC permits are not required. Neither the International Building Code (IBC)/2009 nor the International Residential Code (IRC)/2009 provides criteria for the design of bulkheads or piers.

There are exceptions to this rule:

1. If the bulkhead or pier is used to support a building or structure, then a permit is required, because it becomes part of the building foundation.
2. If the bulkhead is used as a retaining wall that is part of the means of egress, a permit is required. See N.J.A.C. 5:23-2.14(g).

An example might help:

A bulkhead is 30 feet from the building. Failure of this bulkhead could eventually cause the building to fail from erosion due to the grade being equal to the height of the water. Would that bulkhead fall under exception 1 above?

No, exception number 1 is not applicable, because the bulkhead is not supporting the foundation of the building.

The responsibility for the review and inspection of bulkheads and piers remains with the municipal engineer. UCC permit applications should not be used for this purpose.

If you have any questions on this, please direct your calls to me at (609) 984-7609.

Source: Marcel Iglesias  
Code Assistance Unit

### Warnings

*continued from left*

hangers, communication cable, ceiling dampers, GFCIs, and more. If you suspect an issue with a product being used or just wish to review UL current products identified having potential safety issues, a list may be found at the following web address:

<http://www.ul.com/global/eng/pages/corporate/newsroom/publicnotices/>

If you have any questions, please feel free to call me at (609) 984-7609.

Source: Michael E. Whalen  
Code Assistance Unit

## Local Enforcing Agency Plan Review

It has been brought to the Department’s attention that several municipalities fail to comply with N.J.A.C. 5:23-2.15(f)(5)ii(l) which states that if local, county or State prior approvals have not been met, plan review shall proceed as long as the rest of the permit application is complete. The exception is one- and two-family dwelling projects that must have a zoning approval in place before plan review begins.

Therefore, if a permit application is submitted (for other than a one- and two-family dwelling) and prior approvals are missing, you must accept the plans, charge a nonrefundable plan review fee, and perform the plan review. By submitting the application for plan review before obtaining prior approvals, the applicant assumes a certain risk. If a planning board approval requires substantive changes that affect code compliance, then the plans must be revised and resubmitted. Of course, if a municipality has an hourly rate in the municipal fee schedule, the hourly rate may be charged for this review. Under no circumstances can the permit be issued until all required prior approvals have been obtained.

If you have questions on this requirement, please contact the Code Assistance Unit at (609) 984-7609.

Source: Louis J. Mraw, Supervisor  
Office of Regulatory Affairs

## Gypsum Finish Ratings –Membrane Protection

For your information, the Gypsum Association provides guidelines for specifying fire resistance rated wall and ceiling membrane systems as GA-610-02 (Fire Resistance Provided by Gypsum Board Membrane Protection), which provides fire resistance through the installation of multiple layers of gypsum board. Similar in application to FTO-13 (Fire Separation between Dwelling Units and Attached Private Garages), GA-610-02 provides the installation methods for a finish/membrane rating of a system. The Gypsum Association offers these finish-rating systems for purposes such as:

- In certain types of new construction, it may be neither practical nor economical to use the type of structural components found in tested and listed systems.
- Upgrading existing walls or floor-ceiling systems may involve limited access to the space or the

See Gypsum Finish -continued at right

presence of construction materials that may not be used in any currently available tested or listed system.

Therefore, GA-610-02 can be used for fire-resistance in new and existing construction for one- and two-hour ceilings and one-hour wall membranes. To see the exact listing and its installation requirements, please visit:

<http://www.gypsum.org/wp/wp-content/uploads/2011/11/GA-610-02b.pdf>

Reminder: The finish rating above is derived from the same test method (ASTM E 119) that establishes fire-resistance ratings for systems from Sections 703.2 and 703.3 of the International Building Code/2009. In gypsum board construction, the finish rating can be determined to be the fire-resistance rating provided by the gypsum board membrane on the fire exposed side. In short, this rating applies in limited areas of construction.

If you have questions, please contact the Code Assistance Unit at (609) 984-7609.

Source: Rob Austin  
Code Assistance Unit

## Production Meter Requirements for Solar Projects and the Electrical Subcode

Recently, the New Jersey Board of Public Utilities (BPU) adopted new rules requiring that a revenue-grade meter (RGM) must be installed by November 30, 2012 so that all solar energy systems eligible to earn solar renewable energy credits (SRECs) can report system production. Credits are earned based upon readings obtained from a RGM measuring the system output.

Some of you might think, isn’t the system’s inverter capable of displaying accumulated kilowatt-hours? This is true; however, the accuracy of the inverter meter typically does not meet the American National Standards Institute (ANSI) Standard C12.1-2008 accuracy standards required by the New Jersey Clean Energy Program and therefore cannot be used for the purpose of generating SRECs.

So what does a RGM (aka, production meter) mean to the electrical subcode official? This meter is (1) in addition to the electric meter installed by the local utility to measure the home or business’ electric consumption and (2) subject to the requirements of the Uniform Construction Code.

As mentioned earlier, the meter is required to meet

See Requirements- page 10

# Department of Education Approval for School Projects – Clarification

In the Fall 2011 *Construction Code Communicator*, Frank LoDolce (Department of Education) and I published an article that provided guidance to code officials on determining the need for a Department of Education (DOE) review on school projects. One sentence in this article caused confusion; let's set the record straight.

If DOE review is not required on a school project, then a DOE124 is not required. In these instances, the local enforcing agency is authorized to perform the review of the construction documents without individual authorization by the Department. This is, of course, contingent on the enforcing agency having the appropriate classification for the review.

I hope this clarifies this matter, but, if you should have questions, please feel free to give me a call at (609) 984-7609.

Source: John N. Terry  
Division of Codes and Standards

## Fire Resistive, Fire Resistant and Circuit Integrity Cables

On September 26, 2012, Edward Smith, Director of the Division of Codes and Standards, sent a letter to all Construction Officials and Electrical Subcode Officials providing initial guidance on Underwriter Laboratories' withdrawal of its listing for specific cables. Director Smith committed to updating the guidance as additional information was made available. This article is such an update and is intended to provide clarity as to which cables cannot be used; it is based on the Underwriter

*See Cables -continued at right*

### Requirements

*continued from page 9*

the accuracy standard of the American National Standards Institute (ANSI) C12.1-2008 and must be installed per the manufacturer's installation instructions. Even though a Uniform Construction Code (UCC) permit is required for the installation of the meter, the Department of Community Affairs has determined that the listing/labeling requirements per Sections 90.7 and 110.3(B) of the electrical subcode are not applicable. Therefore, when a RGM is installed in a new or existing solar energy system, the electrical subcode official needs to verify (1) that the RGM meter meets the ANSI standard and (2) that it is compatible with the listed meter socket cabinet.

The BPU has provided two lists (see links below) intended to assist you in identifying a RGM that meets these accuracy requirements. These lists are not all-inclusive. The first link is from the New York State Department of Public Service and the second link is from the California Energy Commission:

[http://www.njcleanenergy.com/files/file/Renewable\\_Programs/REIP/Approved %20Meter %20List.pdf](http://www.njcleanenergy.com/files/file/Renewable_Programs/REIP/Approved_%20Meter_%20List.pdf)

[http://www.gosolarcalifornia.org/equipment/system\\_perf.php](http://www.gosolarcalifornia.org/equipment/system_perf.php)

If you have any questions regarding this matter, please contact the Code Assistance Unit at (609) 984-7609.

Source: Ken Verbos  
Office of Regulatory Affairs

### Cables

*continued from left*

Laboratories (UL) press release.

In its most recent guidance UL has made it clear that it is no longer authorizing manufacturers to place the UL mark or ULC mark on the following categories of cables:

- 1. UL Classified Fire Resistive Cable (FHJR);
- 2. ULC Listed Fire Resistant Cable (FHJRC); and
- 3. UL Listed Cable with "-CI" Suffix (Circuit Integrity).

These categories of fire resistive and cable integrity cables no longer consistently achieve a **fire-resistive rating** when subjected to the standard Fire Endurance Test of UL2196 or ULC-S139. However, Electrical Subcode Officials and Fire Protection Subcode Officials may approve the use of these cables where other alternative methods (e.g. automatic fire suppression system, 2-hour rated assembly, embedded in 2 inches of concrete, etc.) are used to obtain the required fire-resistive rating.

In addition, UL is not the only testing laboratory that provides ratings for fire-resistive cable. If cable marked by another testing laboratory meets the two-hour fire-resistive rating, it may be approved/used.

Finally, the Department has learned that some code officials have denied the use of UL1424 listed cable types FPLP, FPLR and FPL and UL1425 listed cable types NPLF, NPLFR and NPLFP. The listings for these cable types have not been withdrawn and these cables (including cables with a CI designation) may continue to be approved for use where no fire resistive rating is required.

If you have any questions, please feel free to call us at (609) 984-7609.

Source: Michael E. Whalen and Rob Austin  
Code Assistance Unit



New Jersey Department of Community Affairs  
Division of Codes and Standards  
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Trenton, NJ 08625-0802

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# Construction Code Communicator



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 Kim Guadagno, Lt. Governor

Department of Community Affairs  
 Richard E. Constable III, Commissioner

Volume 24, Number 4

Winter 2012

## The Winter Communicator: A Reminder

The final issue of the *Construction Code Communicator* each year will consist of a collection and re-printing of all the Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items that were posted on the Division's website during the calendar year.

Once the *Construction Code Communicator* has been posted, the individual Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items will be removed from the Division's website. However, it will still be possible to see a copy of any of these documents as it was originally posted on the Division's website by accessing the Division's Document Library or through the "Topics A-Z" tab on the Division's website: [www.nj.gov/dca/divisions/codes/](http://www.nj.gov/dca/divisions/codes/).

In short, there are no new articles in this issue.



Also, the Index for all four issues of the *Construction Code Communicator* 2012 is included in this issue as a handy reference.

Prospectively, the *Construction Code Communicator* will follow this same format: three issues, Spring, Summer, and Fall, that contain articles and a Winter issue that will provide in one place all the Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items that were posted on the Division's website in that calendar year. We hope that you continue to appreciate this aspect of the *Construction Code Communicator*.

If you have any questions about the *Construction Code Communicator*, or if you have any recommendations for articles, please feel free to contact me at (609) 984-7609 or at [etempleton@dca.state.nj.us](mailto:etempleton@dca.state.nj.us).

Source: Emily W. Templeton  
 Division of Codes and Standards



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## State Permit Surcharge Fee and Permits for Storm Damage Repair

In a letter dated November 2, 2012, Director Smith wrote:

Dear Construction Official:

I am writing to remind everyone that municipalities may waive fees for permits for work made necessary by hurricane damage. Pursuant to N.J.A.C. 5:23-4.19(b)5., if the municipality is waiving its fees, then the State permit surcharge fee also is waived.

Should you have any questions, please feel free to contact the Office of Regulatory Affairs at (609) 984-7672.

Sincerely,

Edward M. Smith  
 Director  
 Division of Codes and Standards

# Are You Ready to Ride?

*In a May 21, 2012 Alert, the Bureau of Code Services provided the following Safety tips:*

## **The DOs of Ride Safety:**

- Do observe each ride before participating – make sure you are comfortable with it
- Do look for the posted State of New Jersey certificate of operation – this document ensures rides are inspected and have passed the stringent safety regulations required by the state
- Do read and obey all written and verbal warnings and instructions
- Do observe age, height and weight, and other physical restrictions for each ride

## **Before the Ride Begins:**

- Do fasten safety equipment such as a seatbelt, shoulder harness, lap bar or chain
- Do secure all clothing and personal possessions
- Do follow instructions of ride operators

## **While the Ride is in Motion:**

- Do keep hands, arms, legs and feet inside the ride at all times

## **Before Getting off of the Ride:**

- Do keep all safety equipment fastened until the operator instructs you to exit
- Do stay in the ride until it comes to a complete stop and wait for the operator to tell you to get out
- Do enter or dismount a ride only in the area instructed by the ride operator

## **The DON'Ts of Ride Safety**

- Don't throw any object from an amusement ride or attraction
- Don't endanger or injure yourself or others around you on the ride by behaving in a reckless manner
- Don't enter any ride that you are uncomfortable with or that your child fears
- Don't horseplay around, on or near a ride at any time
- Don't enter a ride without the supervision of the ride operator
- Don't bring food or drinks on any ride, and don't smoke

## **Child Safety**

- Parents should take several additional safety precautions for their children, especially small children, when participating in amusement rides or attractions

## **Parents should:**

- Know your child's capabilities and limitations with regard to whether the ride is appropriate for them
- Watch the ride in operation before entering to make sure your child can ride it safely
- Remind your child of Ride Safety 'Dos' and 'Don's'
- Remind your child to stay seated, hold on to safety bars and obey the ride operator's instructions
- Designate an easily recognizable place to meet your child after the ride is over
- Supervise your child at all times

**Safety is the most important component of every family outing. New Jersey's amusement parks, fairs, carnivals and attractions are some of the best in the country and are designed to entertain every member of your family. So the next time you visit your favorite amusement park, fair or carnival, just remember to be "Ready to Ride."**

## Local Property Maintenance and Resale Inspection Ordinances

*In a letter dated June 2012, Director Smith wrote:*

Dear Construction Official:

The Division of Codes and Standards is conducting a review of local property maintenance ordinances and resale inspection ordinances whether applicable to single-family, multi-family or non-residential structures. We also are interested in change of tenancy ordinances which contain provisions requiring building upgrades or some form of compliance with one of the adopted subcodes of the UCC or a fire safety code.

Please submit the ordinances to the Office of Regulatory Affairs at PO Box 818 Trenton NJ 08625-0818. Ordinances may also be sent via e-mail to [susan.lydon@dca.state.nj.us](mailto:susan.lydon@dca.state.nj.us). If the municipality has no such ordinances, please respond and let us know this.

Should you have any question you may contact Susan Lydon of the Office of Regulatory affairs at 609-984-7672. Thank you for your anticipated cooperation.

Sincerely,

Edward M. Smith  
Director  
Division of Codes and Standards

## Permit Extension Act, Updated Guidance

*In a letter dated December 10, 2012, Director Smith wrote:*

Dear Construction Official:

As you may know, P. L. 2012, c.48, the Greenwald Jobs Creation Bill (A-1338) extends the expiration date of certain permits under the Permit Extension Act of 2008, P.L. 2008, c.78. Under this new law, the dates have changed, the definition of "environmentally sensitive areas" is modified and amendments have been made to the list of permits and approvals included and excluded under the Permit Extension Act. The other terms and conditions of the Permit Extension Act remain as they were. Below and attached please find updated guidance on the application of the Permit Extension Act which has been revised to reflect the new expiration dates.

*See Guidance -page 6*

## The Flood Hit! Now What?



*In an article originally published in Summer 2007 but posted at the Division's website in Summer 2011 again as a reminder, the Division advised:*

When flooding causes damage throughout your community, as a local Uniform Construction Code (UCC) enforcement agency, you may be called on to assist in the process of returning building occupants safely back into their homes or businesses. UCC enforcement agencies should provide property owners with the necessary support to evaluate conditions in identified damaged buildings. Depending on the extent of damage to the building, examples of tasks that your agency might be asked to complete are:

- Assessment by building inspectors of damage to foundation walls and inspection for signs of structural damage
- Evaluation by electrical inspectors of the damage to the property's electrical system, including the electrical service and whether reconnection can be made by the utility provider
- Evaluation by plumbing inspectors of the condition of the property's piping and fuel service, including recommending when it is safe to turn service back on
- Evaluation by fire-protection inspectors of the status of fire-protection systems within buildings

Completing these tasks may be overwhelming to your agency, depending on the extent of flood damage in your community. The Department of Community Affairs, Division of Codes and Standards is able to provide assistance to local enforcement agencies in helping a community complete the above tasks during a disaster. A brochure, "Flooding Hazards: What You Need to Know," is available on the Department's web site at:

<http://www.nj.gov/dca/divisions/codes/alerts/pdfs/flood.pdf>

Please feel free to reach out to me with questions or comments. I can be reached at (609) 292-7898 or [cgiangeruso@dca.state.nj.us](mailto:cgiangeruso@dca.state.nj.us).

Source: Carmine Giangeruso  
Division of Codes and Standards  
Construction Official/Emergency Coordinator

# UL-listed Fire Resistive Cable

Guidance

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In a letter dated September 26, 2012, Director Smith wrote:

Dear Construction Officials and Electrical Subcode Officials:

As you may be aware, Underwriters Laboratories (UL) has pulled its listing of all fire resistive cable, including listings for electrical circuit protective systems using fire resistive cable. I am writing to offer guidance on how to handle the withdrawal of these listings based on the information available.

Currently, UL still is investigating how and whether these products fail to perform and under what circumstances. We will continue to monitor this investigation closely and we will provide updated information and instructions as warranted. For now, code officials are advised to follow the below guidance:

Existing installations in any building or project for which a certificate of occupancy has been issued regardless of its age should be left as is. There is no recall or retrofit at this point in time.

For projects for which permits have been issued, but for which no certificate of occupancy has been issued, and for projects for which permit applications have been received, but for which no permit has been issued, the project should be allowed to proceed with the use of the product since the product was listed at the time of permit application. However, the applicant and the owner, if other than the applicant, should be given a copy of the enclosed notice informing them of the current situation and allowing them to make decisions based upon what is known at this time.

Projects for which applications are filed after today's date cannot use a product for which there is no listing. In these cases, an alternate method of compliance must be used to achieve required fire rating.

Should you have any questions or need any further information, please feel free to contact our Code Assistance Unit at (609) 292-7899 or [codeassist@dca.state.nj.us](mailto:codeassist@dca.state.nj.us).

Sincerely,

Edward M. Smith  
Director  
Division of Codes and Standards

As code officials, you will continue to deal with this law on two levels: its impact on permits issued under the UCC and its impact on prior approvals. The Act stops the clock on the running of approvals during the "extension period," which is now defined as January 1, 2007 through December 31, 2014. This means that any UCC permit that was valid as of January 1, 2007 will still be valid on December 31, 2014. On December 31, 2014, when the clock starts again, the permit is valid for an additional six months or for the time that would have remained on January 1, 2007, whichever is shorter. Any permit issued during the extension period (between January 1, 2007 and December 31, 2014) will be valid until June 30, 2015 (six months beyond the end of the extension period,) or until the date when it would have expired if the Permit Extension Act had not been passed, whichever is longer. (Some examples of how to apply the Permit Extension Act to UCC permits are enclosed.)

There continues to be an exclusion in the Act for permits issued for projects in environmentally sensitive areas. To determine whether your municipality or any portion of your municipality is an "environmentally sensitive area" as that term is defined in the Act, please refer to the enclosed attachment.

In order to determine whether a prior approval qualifies for extension under this Act, construction officials should check with the agencies and officials responsible for issuing those prior approvals to make sure that those prior approvals remain in effect. A list of the approvals included and of those excluded by the Act is enclosed.

In those cases where plan review was done by DCA, any plan release that was valid on or after January 1, 2007 may be used to support issuance of a permit through June 30, 2015. Once again, before issuing a permit, it is necessary to check with the agencies or officials involved to ensure that any required prior approvals remain valid.

Information, including the full text of the Act, is posted on the Division's website at for your use. (Direct link: [http://www.njleg.state.nj.us/2012/Bills/A1500/1338\\_R4.PDF](http://www.njleg.state.nj.us/2012/Bills/A1500/1338_R4.PDF)).

Should you have any questions about the application of the Permit Extension Act, please feel free to call the Code Assistance Unit at (609) 984-7607.

Sincerely,  
Edward M. Smith  
Director  
Division of Codes and Standards

**Guidance**

*continued from page 6*

Attachments:

- Definition of "Environmentally Sensitive Area"
- List of permits included and excluded
- Examples of Application to Permits Issued under the UCC

**Permit Extension Act of 2008**

**Definition of "Environmentally Sensitive Area"**

"Environmentally sensitive areas" include areas designated in the State Development and Redevelopment Plan as Planning Area 4B (Rural/Environmentally Sensitive), Planning Area 5 (Environmentally Sensitive), or a critical environmental site, but shall not include any "extension area."

An "extension area" is an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), Planning Area 4A (Rural Planning Area), a designated center, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to refine this definition as it pertains to Statewide planning areas, whichever is later; a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6); regional growth areas, villages, and towns, designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); the planning area of the Highlands Region as defined in section 3 of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-3), and any Highlands center designated by the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection. "Extension area" shall not include an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 as Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive), except for any area within

*See Guidance –continued at right*

**Guidance**

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Planning Area 4B or Planning Area 5 that is a designated center, or a designated growth center in an endorsed plan.

**Permit Extension Act of 2008  
List of Permits and Approvals Included and Excluded**

The law specifically **includes** UCC permits and includes the following: any approval of a soil erosion and sediment control plan granted by a local soil conservation district, any waterfront development permit, any permit issued pursuant to "The Wetlands Act of 1970," any permit issued pursuant to the "Freshwater Wetlands Protection Act," any approval of an application for development granted by the Delaware and Raritan Canal Commission, any permit issued by the New Jersey Meadowlands Commission, any approval of an application for development granted by the Pinelands Commission and determination of municipal and county plan conformance pursuant to the "Pinelands Protection Act," any permit issued or center designations made pursuant to the "Coastal Area Facility Review Act," any septic approval, any highway access permit or right-of-way permit granted by the Department of Transportation, any approval granted by a sewerage authority\*, any approval granted by a municipal utilities authority, an agreement with a municipality, county, municipal authority, sewerage authority, or other governmental authority for the use or reservation of sewerage capacity, any approval issued by a county planning board, any preliminary and final approval granted in connection with an application for development pursuant to the "Municipal Land Use Law," any plan endorsement and center designations approved pursuant to the "State Planning Act," any permit or certification issued pursuant to the "Water Supply Management Act," any permit granted authorizing the drilling of a well, exemption from a sewerage connection ban granted\*, wastewater management plan approved, and pollution discharge elimination system permit pursuant to the "Water Pollution Control Act," any certification granted pursuant to "The Realty Improvement Sewerage and Facilities Act," any certification or approval of water and sewerage facilities for 50 or more units granted pursuant to P.L.1971, c.386, any certification issued and water quality management plan approved pursuant to the "Water Quality Planning Act," any approval granted pursuant to the "Safe Drinking Water Act."

\*Note: The continuation of an approval for connection to a sanitary sewer is contingent on the availability of sufficient capacity.

The law specifically **excludes** the following: any permit or approval issued by the government of the United

*See Guidance -page 8*

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States or any agency or instrumentality thereof, or any permit or approval for which the expiration is determined under Federal law; any permit or approval issued pursuant to the "Pinelands Protection Act," if the extension would result in a violation of federal law, or any State rule or regulation requiring Federal approval; any permit or approval issued within an environmentally sensitive area; any permit or approval within an environmentally sensitive area issued pursuant to the "Highlands Water Protection and Planning Act," or any permit or approval issued within the preservation area of the Highlands Region; any permit or approval issued by the Department of Transportation other than a right-of-way permit or a highway access permit; any permit or approval issued pursuant to the "Flood Hazard Area Control Act," except (a) where work has commenced in any phase or section of the development, on any site improvement or on any buildings or structures or (b) where the permit or approval authorizes work on real property owned by the government or the federal government; any coastal center designated pursuant to the "Coastal Area Facility Review Act," that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal Zone Management Rules; any permit or approval within the Highlands planning area located in a municipality subject to the "Highlands Water Protection and Planning Act," that has adopted, as of May 1, 2012, in accordance with the Highlands Water Protection and Planning Council conformance approval, a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory, except that the provisions of this paragraph shall not apply to any permit or approval within a Highlands center designated by the Highlands Water Protection and Planning Council, notwithstanding the adoption by the municipality of a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory.

**Permit Extension Act of 2008, as amended and extended by P.L. 2012, c.48**  
**Examples of Applying the Act to UCC Permits**

The Permit Extension Act extends all permits that were open and valid as of January 1, 2007. Under the UCC rules, a construction permit lapses if (1) no work is done for a year or (2) work, having been started, is discontinued for six months. (See NJ.A.C.5:23-2.16(b)) The following are some examples of how certain scenarios would be affected by the Permit Extension Act:

Examples:

See Guidance –continued at right

Guidance

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1. A construction permit was obtained prior to January 1, 2006 and no work was done. The permit has lapsed and is not revived by the Permit Extension Act because it was not a valid, open permit on January 1, 2007.
2. A construction permit was obtained on April 1, 2006 and no work was done. The permit was deemed to have lapsed as of April 1, 2007. However, the permit is now deemed to have been revived by the passage of the Permit Extension Act. Since it would have been valid for three more months as of January 1, 2007, it will continue to be valid for three more months as of December 31, 2014, and its new expiration date, if it is not acted upon, will be March 31, 2015.
3. A construction permit was obtained on October 1, 2006 and no work was done. The permit would have been valid for nine more months as of January 1, 2007 and is now deemed to have been revived, and to continue to be valid as of December 31, 2014. However, since a permit that is only valid because it was extended by the Permit Extension Act can only remain valid for six months following the end of the extension period, the permit would only be valid for six more months, and would expire on June 30, 2015.
4. A construction permit is obtained between January 1, 2007 and June 30, 2014. Though the time would not begin to run until December 31, 2014, the permit would expire on June 30, 2015, since the Permit Extension Act does not allow any extensions beyond June 30, 2015 unless the permit would have continued in existence beyond that date had the Permit Extension Act not been adopted.
5. A construction permit is obtained after June 30, 2014. Since the permit is valid for a year, it is unaffected by the June 30, 2015 cut-off date and expires one year from the date of issuance, just as it would have if the Permit Extension Act had not been adopted.





## P.L. 2012, C. 48 Permit Extension Act

### CHAPTER 48

**AN ACT** concerning the extension of certain permits and approvals affecting the physical development of property located within the State of New Jersey and amending P.L.2008, c.78.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.2008, c.78 (C.40:55D-136.2) is amended to read as follows:

C.40:55D-136.2 Findings, declarations relative to extension of certain permits and approvals.

2. The Legislature finds and declares that:

a. The most recent national recession has caused one of the longest economic downturns since the Great Depression of the 1930s and has drastically affected various segments of the New Jersey economy, but none as severely as the State's banking, real estate and construction sectors.

b. The real estate finance sector of the economy is in severe decline due to the sub-prime mortgage problem and the resultant widening mortgage finance crisis. The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets.

c. As a result of the crisis in the real estate finance sector of the economy, real estate developers and redevelopers, including homebuilders, and commercial, office, and industrial developers, have experienced an industry-wide decline, including reduced demand, cancelled orders, declining sales and rentals, price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans.

d. The process of obtaining planning board and zoning board of adjustment approvals for subdivisions, site plans, and variances can be difficult, time consuming and expensive, both for private applicants and government bodies.

e. The process of obtaining the myriad other government approvals, required pursuant to legislative enactments and their implementing rules and regulations, such as wetlands permits, treatment works approvals, on-site wastewater disposal permits, stream encroachment permits, flood hazard area permits, highway access permits, and numerous waivers and variances, also can be difficult and expensive; further, changes in the law can render these approvals, if expired or lapsed, impossible to renew or re-obtain.

f. County and municipal governments obtain determinations of master plan consistency, conformance, or endorsement with State or regional plans, from State and regional government entities which may expire or lapse without implementation due to the state of the economy.

g. The current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants, due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy, and increasing levels of unemployment in the construction industry.

h. The construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would, if not addressed, exacerbate those losses.

i. Financial institutions that lent money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State.

j. Due to the current inability of builders and their purchasers to obtain financing, under existing economic conditions, more and more once-approved permits are expiring or lapsing and, as these approvals lapse, lenders must re-appraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans which, in turn, affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.

**Permit Extension Act***continued from page 9*

k. As a result of the continued downturn of the economy, and the continued expiration of approvals which were granted by State and local governments, it is possible that thousands of government actions will be undone by the passage of time.

l. Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be both costly in terms of time and financial resources, and insufficient to cope with the extent of the present financial situation; moreover, the costs imposed fall on the public as well as the private sector.

m. It is the purpose of this act to prevent the wholesale abandonment of approved projects and activities due to the present unfavorable economic conditions, by tolling the term of these approvals for a period of time, thereby preventing a waste of public and private resources.

2. Section 3 of P.L.2008, c.78 (C.40:55D-136.3) is amended to read as follows:

C.40:55D-136.3 Definitions relative to extension of certain permits and approvals.

3. As used in P.L.2008, c.78 (C.40:55D-136.1 et seq.):

"Approval" means, except as otherwise provided in section 4 of P.L.2008, c.78 (C.40:55D-136.4), any approval of a soil erosion and sediment control plan granted by a local soil conservation district under the authority conferred by R.S.4:24-22 et seq., waterfront development permit issued pursuant to R.S.12:5-1 et seq., permit issued pursuant to "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.), permit issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et al.), approval of an application for development granted by the Delaware and Raritan Canal Commission pursuant to the "Delaware and Raritan Canal State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), permit issued by the New Jersey Meadowlands Commission pursuant to the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et al.), approval of an application for development granted by the Pinelands Commission and determination of municipal and county plan conformance pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), permit issued and center designations pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), septic approval granted pursuant to Title 26 of the Revised Statutes, permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto, right-of-way permit issued by the Department of Transportation pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5), approval granted by a sewerage authority pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), approval granted by a municipal authority pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), an agreement with a municipality, county, municipal authority, sewerage authority, or other governmental authority for the use or reservation of sewerage capacity, approval issued by a county planning board pursuant to chapter 27 of Title 40 of the Revised Statutes, preliminary and final approval granted in connection with an application for development pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), permit granted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), plan endorsement and center designations pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), permit or certification issued pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et al.), permit granted authorizing the drilling of a well pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification or permit granted, exemption from a sewerage connection ban granted, wastewater management plan approved, and pollution discharge elimination system permit pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted pursuant to "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), certification or approval granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et al.), certification issued and water quality management plan approved pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.), permit issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), any municipal, county, regional, or State approval or permit granted under the general authority conferred by State law or rule or regulation, or any other government authorization of any development

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application or any permit related thereto whether that authorization is in the form of a permit, approval, license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement or any other executive or administrative decision which allows a development or governmental project to proceed.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

"Environmentally sensitive area" means an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 4B (Rural/Environmentally Sensitive), Planning Area 5 (Environmentally Sensitive), or a critical environmental site, but shall not include any extension area as defined in this section.

"Extension area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), Planning Area 4A (Rural Planning Area), a designated center, or a designated growth center in an endorsed plan until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to refine this definition as it pertains to Statewide planning areas, whichever is later; a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6); regional growth areas, villages, and towns, designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); the planning area of the Highlands Region as defined in section 3 of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-3), and any Highlands center designated by the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection. "Extension area" shall not include an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 as Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive), except for any area within Planning Area 4B or Planning Area 5 that is a designated center, or a designated growth center in an endorsed plan.

"Extension period" means the period beginning January 1, 2007 and continuing through December 31, 2014.

"Government" means any municipal, county, regional, or State government, or any agency, department, commission or other instrumentality thereof.

3. Section 4 of P.L.2008, c.78 (C.40:55D-136.4) is amended to read as follows:

C.40:55D-136.4 Existing government approval; extension period.

4. a. For any government approval in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided hereunder; however, the tolling provided for herein shall not extend the government approval more than six months beyond the conclusion of the extension period. Nothing in P.L.2008, c.78 (C.40:55D-136.1 et seq.) shall shorten the duration that any approval would have had in the absence of P.L.2008, c.78, nor shall P.L.2008, c.78 prohibit the granting of such additional extensions as are provided by law when the tolling granted by P.L.2008, c.78 shall expire. Notwithstanding any previously enacted provision of P.L.2008, c.78, as amended and supplemented, the running of the period of approval of all government approvals which would have been

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extended pursuant to the definition of "extension area," added by P.L.2012, c.48, shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78.

b. Nothing in P.L.2008, c.78 (C.40:55D-136.1 et seq.) shall be deemed to extend or purport to extend:

(1) any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or any permit or approval by whatever authority issued of which the duration of effect or the date or terms of its expiration are specified or determined by or pursuant to law or regulation of the federal government or any of its agencies or instrumentalities;

(2) any permit or approval issued pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) if the extension would result in a violation of federal law, or any State rule or regulation requiring approval by the Secretary of the Interior pursuant to Pub.L.95-625 (16 U.S.C. s.471i);

(3) any permit or approval issued within an environmentally sensitive area;

(4) any permit or approval within an environmentally sensitive area issued pursuant to the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.), or any permit or approval issued within the preservation area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3);

(5) any permit or approval issued by the Department of Transportation pursuant to Title 27 of the Revised Statutes or under the general authority conferred by State law, other than a right-of-way permit issued pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto;

(6) any permit or approval issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), except (a) where work has commenced, in any phase or section of the development, on any site improvement as defined in paragraph (1) of subsection a. of section 41 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-53) or on any buildings or structures or (b) where the permit or approval authorizes work on real property owned by the government or the federal government;

(7) any coastal center designated pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal Zone Management Rules at N.J.A.C.7:7E-5B.6; or

(8) any permit or approval within the Highlands planning area located in a municipality subject to the "Highlands Water Protection and Planning Act," P.L.2004, c.120, that has adopted, as of May 1, 2012, in accordance with the Highlands Water Protection and Planning Council conformance approval, a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory, except that the provisions of this paragraph shall not apply to any permit or approval within a Highlands center designated by the Highlands Water Protection and Planning Council, notwithstanding the adoption by the municipality of a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory.

c. P.L.2008, c.78 shall not affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the extension period, nor shall it be construed to extend any approval in connection with a resource recovery facility as defined in section 2 of P.L.1985, c.38 (C.13:1E-137).

d. Nothing in P.L.2008, c.78 shall affect the ability of the Commissioner of Environmental Protection to revoke or modify a specific permit or approval, or extension thereof pursuant to P.L.2008, c.78, when that specific permit or approval contains language authorizing the modification or revocation of the permit or approval by the department.

e. In the event that any approval tolled pursuant to P.L.2008, c.78 is based upon the connection to a sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a

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hookup prior to the date of enactment of P.L.2008, c.78. Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to P.L.2008, c.78 shall be allocated in order of the granting of the original approval of the connection.

f. P.L.2008, c.78 shall not toll any approval issued under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) in connection with an application for development involving a residential use where, subsequent to the expiration of the permit but prior to January 1, 2007, an amendment has been adopted to the master plan and the zoning ordinance to rezone the property to industrial or commercial use when the permit was issued for residential use.

g. Nothing in P.L.2008, c.78 shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.

h. Nothing in P.L.2008, c.78 shall be deemed to extend the obligation of any wastewater management planning agency to submit a wastewater management plan or plan update, or the obligation of a municipality to submit a wastewater management plan or plan update, pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department of Environmental Protection, effective July 7, 2008.

i. All underlying municipal, county, and State permits or approvals within the extension area as defined in section 3 of P.L.2008, c.78 (C.40:55D-136.3), as amended, are extended in the Pinelands Area as designated pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.).

4. Section 5 of P.L.2008, c.78 (C.40:55D-136.5) is amended to read as follows:

C.40:55D-136.5 Notice.

5. State agencies shall, within 30 days after the effective date of P.L.2008, c.78 (C.40:55D-136.1 et seq.), and within 30 days after the effective date of any subsequent amendment and supplement thereto, place a notice in the New Jersey Register tolling all approvals in conformance with this act.

5. Section 6 of P.L.2008, c.78 (C.40:55D-136.6) is amended to read as follows:

C.40:55D-136.6 Liberal construction.

6. The provisions of this act shall be liberally construed to effectuate the purposes of this act, and any subsequent amendment and supplement thereto.

6. This act shall take effect immediately.

*Approved September 19, 2012.*



New Jersey Department of Community Affairs  
Division of Codes and Standards  
101 South Broad Street  
P.O. Box 802  
Trenton, NJ 08625-0802

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