

# RULE ADOPTIONS

## COMMUNITY AFFAIRS

(a)

### DIVISION OF CODES AND STANDARDS

#### Uniform Construction Code

#### Rehabilitation Subcode; Residential Reconstruction

#### Adopted Amendments: N.J.A.C. 5:23-6.26 and 6.27

Proposed: June 7, 2021, at 53 N.J.R. 977(a).

Adopted: January 14, 2022, by Lt. Governor Sheila Y. Oliver,

Commissioner, Department of Community Affairs.

Filed: February 10, 2022, as R.2022 d.035, with non-substantial changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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

Effective Date: March 7, 2022.

Expiration Date: February 9, 2029.

#### Summary of Public Comments and Agency Responses:

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

1. COMMENT: The commenter recommended that all parties that reviewed and approved these proposed amendments “read and attempt to understand” articles relating to the Rehabilitation Subcode located on the Department’s Website, specifically *Background and Guidance, Informational Kit*, and *1999 Innovations in American Government Award*. He noted such phrases from these articles as “now is not the perfect time,” “leave it no less safe,” and “gut rehab.” He implied that the Department’s understanding of reconstruction was similar to reality television home renovation shows. He stated that “These proposed amendments should not be adopted as proposed. The justification for these amendments is lacking and it appears the Department does not have a complete understanding of the intent of the UCC Rehabilitation Subcode. The Department and others are falling down the rabbit hole.”

RESPONSE: The Department is familiar with these publications.

*Background and Information* notes that reconstruction, “involves extensive work to the interior of a building, floor, or tenant space. It is commonly referred to as a ‘gut rehab.’ The rules define reconstruction as ‘any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied.’ Reconstruction includes repair, renovation, alteration in any combination.” The Department uses terms like “gut rehab,” “gut job,” etc., in guidance and explanatory documents because they are easily understood by the public. Guidance and summary statements are drafted for public understanding, and terms of art such as “reconstruction” are not always immediately clear to the reader.

While the Department recognizes that the goal is to undertake work that ensures that the structure is no less safe, the task in creating the rehabilitation subcode was “to develop provisions for existing buildings that were rational, predictable, and that delivered safe and sound rehabilitated structures” (*Background and Information*). The proposed amendments are rational and ensure safer structures.

2. COMMENT: The commenter recommended that the Department view the 1999 Innovations in American Government Award presentation video on the Innovations in American Government Awards website, which features former Director William Connolly and then-Assistant Director Cindy Wilk highlighting key aspects of the rehabilitation subcode. The commenter then recommended that the Department obtain and consider former Director Connolly’s comments on this rulemaking; the commenter opined that he would not support the proposed amendments. Finally, the commenter stated that “if these amendments are adopted as proposed, it is recommended that the 1999 award be given back (but not the \$100,000).”

RESPONSE: As noted in the acceptance of the 1999 Innovations in American Government Award, the goal of the rehabilitation subcode is to provide sensible standards and predictable costs for renovation to revitalize the State’s housing; this rulemaking does not contradict this goal. The changes lessen the need for extension cords that pose a fire hazard, as well as posing a risk to infants and children and other potential threats to safety. In applying this rulemaking only to reconstruction projects, where a substantial amount of work is already taking place, the cost of this work is minimal in the overall scope of such projects. The Department declines to seek the comment of the former Director specifically. Everyone is provided the chance to comment pursuant to the rulemaking’s 60-day public comment period.

3. COMMENT: The commenter felt that the proposed amendments are rehabilitation subcode code changes that should be subject to the “code change process,” and asked if he missed the public hearing. He stated that the justification for these proposed changes to the rehabilitation subcode is lacking and felt that the impact of these changes would be widespread and not just limited to New Jersey. He noted that other states use the New Jersey rehabilitation subcode as a guide, and the International Existing Building Code has a modified version of the subcode; he recommended the Department seek their comment on this rulemaking. He also recommended that the Department review the International Existing Building Code. He further stated that there are other ways to accomplish what he believes is the intent of these proposed amendments without “destroying the intent and purpose of the New Jersey Rehabilitation Subcode.”

RESPONSE: The code change process the commenter appears to be referring to is the code change process applicable to national model codes, that includes public hearings and proposals. There are also documents on the Department’s website that allow for the public to submit proposed changes to the rehabilitation subcode; this form requires justification for any proposed change. Instead, the rehabilitation subcode is a part of the Uniform Construction Code (N.J.A.C. 5:23) and is amended pursuant to the requirements of the Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.), the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.), and the Rules for Agency Rulemaking (N.J.A.C. 1:30). As such, this rulemaking did follow all necessary steps for publication. It was also posted on the Division’s website. The rulemaking document, as published, includes multiple impact statements, as well as a summary of changes, which justify the proposed amendments.

The Department is not responsible for overseeing the use of its subcode in other states or by other entities.

Further, the Department disagrees that this rulemaking destroys the intent and purpose of the rehabilitation subcode. The Department recognizes that rules must evolve over time to suit the ever-changing needs of State citizens. Electrical appliances of all types are increasing in popularity and use; ensuring newer, safer standards are met in reconstruction projects ensures that the State’s building stock is safer and better suited to the needs of its residents.

4. COMMENT: The commenter stated that the notice of proposal Summary statement “erroneously” advises that presently, the basic requirements for these reconstructed dwellings result in limited installation of electrical receptacles and lighting outlets and consequent overuse of extension cords by homeowners, which pose a safety hazard to the occupants of the building. He stated that this language in the Summary statement makes it appear that the Department does not have a complete understanding of the rehabilitation subcode.

RESPONSE: The Department disagrees that this statement is erroneous. The Department has been made aware that this rulemaking is the result of residential reconstruction without required upgrades to receptacle location. Though many opt to have their receptacle and lighting outlet locations updated, it was not required, which creates a lack of uniformity and means that some structures continue to overuse extension cords. The Department further finds that this is a situation that poses a safety hazard to occupants of the building and, thus, the rehabilitation subcode is amended to negate this safety hazard, which did not exist at the

time of construction because fewer devices required direct access to receptacles.

5. COMMENT: “The Department’s Economic Impact statement also advises that the impact to contractors and homeowners would be negligible. (What may be negligible to the Department may not be negligible to others.) Please provide the cost figures that the Department used in making this statement. In addition, please provide a cost comparison of a 1940 built single family detached dwelling located in a low and moderate income area that is not yet a blighted property, of two stories, 1,800 square feet in floor area, with attached two car garage, and basement, with 100 ampere service and meeting the 1940 NEC that is undergoing reconstruction as to what the cost (electrical only) would be to meet the current rehab subcode versus what the cost would be to meet the proposed amended rehab subcode. No additional cost needs to be included for security purposes since copper plumbing pipe still remains in adjoining vacant buildings in the vicinity. If the owner (might even be the homeowner) is paying the electrical contractor(s) to perform the required work, how does the electrical contractor(s) have a negligible impact if any impact at all? Or is the Department assuming less reconstruction rehab work will be performed resulting in a loss of electrical work for electrical contractors?”

RESPONSE: The notice of proposal Economic Impact statement holds true; homeowners opting to undergo a reconstruction project will already have to undertake electrical work in their homes to account for the large-scale improvements entailed in reconstruction. As stated in the Response to Comment 2, accounting for a higher number of receptacles and lighting outlets than those previously in the home is not expected to add a substantial cost to the already substantial nature of the work. In addition, because reconstruction will look different from project to project, there is not one cost comparison that could be made for any 1940s home undergoing reconstruction. Further, as stated in the notice of proposal Jobs Impact discussed in the Response to Comment 6, increased receptacles and lighting outlets are often included in reconstruction projects currently because homeowners are willing to pay for the added safety; that is why the Department determined it was appropriate to require upgrades during reconstruction. The Department does not anticipate that fewer reconstruction projects will be performed as a result of this rulemaking.

6. COMMENT: The commenter notes that the notice of proposal Jobs Impact states that the vast majority of (electrical) contractors already perform the proposed amendments. He noted that the more electrical provisions that are added to the rehabilitation subcode, the more money contractors will be paid, and stated that the Department is implying they are performing this work for free.

RESPONSE: The purpose of the Jobs Impact statement is to discuss “the number of jobs that are expected to be generated or lost if the proposed rule takes effect” (*OAL Rulemaking Manual*). It does not speak to the money contractors will make by performing their jobs. The Department disagrees that the rulemaking summary implied that contractors undertake this work for free.

7. COMMENT: The commenter noted that the Department’s Regulatory Flexibility Analysis advises that the inclusion of appropriately spaced electrical receptacles and lighting outlets in the course of a reconstruction is not burdensome and is executed by the vast majority of contractors. He asked, “did the Department mean in the course of a Department defined ‘gut job’ instead of ‘reconstruction’? Do the vast majority of electrical contractors automatically do this electrical work to current code because they are getting paid to do it that way? What about an owner, not familiar with current electrical subcode requirements, performing the reconstruction work and knows the spelled-out rehab subcode provisions? Or is there plan review requirements and approvals that address these reconstruction projects?”

RESPONSE: The Department’s intent was to state that this work is executed by the vast majority of contractors during a reconstruction, which is defined as “any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied,” and is colloquially referred to as a gut rehab in guidance documents.

Contractors undertake work pursuant to agreements between the contractor and the homeowner; the Department is not involved in

regulating such agreements but has received confirmation from contractors that this work has become common practice. Including these requirements in the rehabilitation subcode will mean that it is enforceable by the local enforcing agency.

Regarding the hypothetical posited by the commenter, homeowners undertaking work in their own home would follow the rehabilitation subcode. Even if a homeowner is unfamiliar with the exact content of the electrical subcode, these amendments clearly delineate which sections of the electrical subcode are to be met for compliance. In addition, anyone undertaking work must comply with the administrative provisions of the UCC, as noted at N.J.A.C. 5:23-6.2(d). As such, any work requiring a permit would be reviewed by the local enforcing agency and would require confirmation that the homeowner has been undertaking work in accordance with the latest edition of the electrical subcode.

8. COMMENT: “The Department’s Housing Affordability Impact Analysis advises that these amendments would not have an impact on the affordability of housing in NJ. It is hard for me to believe, without a cost analysis being provided, that requiring more improvements to existing buildings does not impact the affordability of housing in NJ. I do recognize that a building built to current codes that undergoes a reconstruction (gut job) may not impact its [sic] affordability, but what about the 1940s building? And although the proposed amendments may be viewed as small in nature, will it impact the redevelopment of existing vacant buildings in low- and moderate-income areas of NJ? Or will owners piecemeal the construction (‘Now is not the perfect time’) so it isn’t a reconstruction project, but ‘Leave it no less safe’?”

RESPONSE: As this is becoming common practice during reconstruction projects, the Department found that this specific upgrade in a reconstruction project would not affect housing affordability. This rulemaking applies only to receptacle and lighting outlets during a reconstruction project. Reconstruction projects are voluntary, and due to their nature, can change the affordability of the house, regardless of when the home was built. Reconstruction has been a part of the rehabilitation subcode since its original adoption and is not included as part of this specific analysis. Updating the receptacle locations and outlet locations as a part of the reconstruction project will not affect the overall affordability of a home after its reconstruction.

9. COMMENT: The commenter notes that the Department’s summary statements advise that the rulemaking is related to the placement and spacing of electrical receptacles and lighting outlets in reconstruction projects undertaken in Groups R-2, R-3, R-4, and R-5. He states that this is misleading, as readers may think that only the placement and spacing provisions of the electrical subcode need to be met. He argues that the amendments trigger more than that.

RESPONSE: The Department disagrees that these amendments trigger more than the spacing and placement requirements set forth in the electrical subcode. However, the Department understands how N.J.A.C. 5:23-6.26(o)1 and 6.27(f)1 could be misinterpreted as requiring branch circuit upgrades; the intent of this rulemaking is only to require the locations of receptacles and lighting outlets in accordance with the electrical subcode. In order to ensure clarity, a change is made upon adoption to properly reflect the intent of this rulemaking.

10. COMMENT: The commenter recommended the Department add a definition of “gut rehabilitation.”

RESPONSE: The Department disagrees that this definition is necessary. As explained in the responses to comments above, the use of terms such as “gut rehabilitation” and “gut job” are commonly and historically used in guidance documents and summary statements to act as explanatory language, which aids in the general public’s understanding of reconstruction, which is a term of art specific to the rehabilitation subcode.

11. COMMENT: The commenter stated that if a motel (Use R-1) is undergoing a reconstruction, it should be required to comply with the current receptacle and lighting outlet provisions of the electrical subcode. He also recommended the Department consider what other provisions should be required.

RESPONSE: The Department respectfully disagrees. Because of the transient nature of R-1 uses, which includes hotels and motels, the safety hazards associated with long-term residence in a home without the appropriate number of receptacles and lighting outlets do not apply; the

largest safety hazard is the overuse of extension cords, which has not been brought to the Department's attention as a problem in R-1 uses. The Department disagrees that any change is needed related to R-1 uses.

12. COMMENT: The commenter asked if a building undergoing reconstruction is always considered a gut job, or if there are reconstructions that would not be considered such. He implied that the Department has a misunderstanding of what the reconstruction category of work is. He then made a number of comparisons and hypotheticals for the Department in considering what constitutes a reconstruction and made comparison to the former "25/50 percent" rule in rehabilitation, which has not been used since the rehabilitation subcode's adoption.

RESPONSE: Reconstruction, by definition, renders a home uninhabitable due to the nature and scope of work. Because a new certificate of occupancy is required before the owner can inhabit the home, "reconstruction" and "gut rehab" are synonymous. The comparison of this rulemaking to the formerly utilized 25/50 method is erroneous and does not compare to the applicability of this rulemaking. Reconstruction, as defined, is not associated with the cost of the project. An explanation of the 25/50 method is below, to aid in public understanding of how this rule differs.

The 25 and 50 denote percentages that refer to cost; this method referred to the cost of the alterations in relation to the value of the building.

13. COMMENT: The commenter stated that "for the case where HGTV's Gut Job is filming and performing a reconstruction of a building in NJ, the Department should go back to the old philosophy that if a building owner has money to spend on his building, he should be required to spend a good portion of that money to make the building approach the current code for new structures regardless that the expensive improvements may have little real benefit in terms of occupant safety and require total current code compliance."

RESPONSE: This comment does not appropriately reflect the intent and purpose of the Uniform Construction Code, which creates uniformity throughout the State regardless of who is performing work; the Department declines to consider this change, which is related to the 25/50 method explained in the Response to Comment 12.

14. COMMENT: The commenter stated that, "what the Department appears to be recommending, unbeknownst to them, is levels of reconstruction."

RESPONSE: The Department respectfully disagrees. These requirements apply to all residential reconstruction.

15. COMMENT: The commenter stated that the Department needs to carefully consider how to incorporate upgrades that are reasonable and not technically infeasible. He asked what provisions of the rehabilitation subcode should be used when a kitchen area is totally gutted. He also asked what provisions of the rehabilitation subcode apply when a kitchen is rearranged (appliances are added, counter spaces and cabinets are added, and the space is reconfigured), without removing the sheet rock. He again recommended the Department look into levels of construction work.

RESPONSE: Technically infeasible applies only to accessibility requirements. It means that when reconfiguring space in an existing building, if it is not possible to meet the full or exact dimension required by the accessibility standard, the space should comply to as great an extent as is possible. Meeting an accessibility standard measurement may be impossible because of structural problems, or it may not be possible without expanding the planned scope of work; that term is not relevant to the scope of this rulemaking, unless receptacle or lighting outlets would be technically infeasible within the reconstruction project, in which case, this is historically handled through the issuance of a variation.

Gutting only a kitchen area or rearranging the room and adding cabinets or counters without removing sheet rock would both be considered alterations pursuant to the definitions set forth at N.J.A.C. 5:23-6.3. This is because reconstruction project has a delineated work area: a reconstruction project involves an entire use, primary function space, or tenancy. Projects that do not involve an entire use, primary function space, or tenancy are not reconstruction projects.

The Department does have levels of rehabilitation; they are repair, renovation, alteration, and reconstruction. Each of these terms are defined, and their applicability within any given rehabilitation project is delineated, within the text of the rehabilitation subcode.

16. COMMENT: The commenter stated that the Department needs to consider what modifications to the rehabilitation subcode can be made to meet the intent of the proposed amendments. He noted that buildings undergoing reconstruction may already meet some, if not all, of the requirements of the codes in effect at the time of the reconstruction project. He suggested the following language to reflect such: "All enclosed areas, other than kitchens, basements, garages, hallways, closets, laundry areas, and bathrooms shall have a minimum of two duplex receptacles outlets. In addition, should the distance between receptacles exceed 15 feet between receptacles or separate wall space of 24 inches or more in width exist that does not have a receptacle, additional receptacles shall be provided in these areas. And revise N.J.A.C. 5:23-6.27(o)2 and 6.27(f)2 to read: Kitchen areas shall have a minimum of two duplex receptacle outlets or equivalent on an independent 20 ampere branch circuit and one switched lighting outlet. At least one of the required duplex receptacles shall be provided to serve counter space and at least one additional duplex receptacle(s) shall be provided to serve other counter space areas. All installed kitchen appliances, such as, but not limited to waste disposal and dishwasher, shall be provided with an independent electrical branch circuit of adequate size. No revision of N.J.A.C. 5:23-6.26(o)3 or 6.27(f)3 appears needed. N.J.A.C. 5:23-6.26(o)4 and 6.27(f)4 appears to need slight modification to address attic spaces with equipment that requires servicing and some other provisions, but providing at least one switched lighting outlet to illuminate (interior and exterior) entrances and exits appears to address the safety concerns. No revision of N.J.A.C. 5:23-6.26(o)5 and 6.27(f)5 appears necessary but may be able to be combined with the previous sections."

RESPONSE: The Department declines to make these recommended changes; the changes within this rulemaking appropriately address the safety concerns surrounding electrical work during reconstruction.

17. COMMENT: "It is requested that the Department consider and respond to the following non-transient residential Group R situations as if the proposed amendments were adopted and as if the Rehabilitation subcode remained as is:

A building built on January 1, 2020, (per NEC 2017 as amended by UCC with no changes) undergoes reconstruction. What electrical subcode requirements relating to electrical receptacles and lighting outlets must be met? Just the Basic and Supplemental Requirements of the Rehab Subcode? Or does the Rehab subcode concept that the work shall not make the building less compliant than it was before come into play? I would expect the Department's answer would be that since the building was in compliance with the current electrical subcode it would have to be rebuilt in conformance with the current electrical subcode. This does not mean that the spacing and location of electrical receptacles and lighting outlets needs to be in the exact same location, but it requires code compliance. So the extension cord that was being used for the wall mounted flat screen TV (TV cord too short to reach lower receptacle outlet) can be eliminated (if the owner wants to) by installing a receptacle outlet(s) on the wall near the TV. But also, the owner can still use the multi-plug adapters, relocatable power taps, and extension cords that were previously in place. So the Department's perceived safety hazards or potential safety hazards appear to remain for buildings that meet current code. Maybe the Department should require the building be posted - 'Caution - Extension Cords may be in Use'. (In English and Spanish) [Please do not express that this occurrence of a gut rehab of a newly built building would be a rare situation. Think flood or natural disaster.]

A building built on January 1, 2016, (per NEC 2014 as amended by UCC with no changes) undergoes reconstruction. What electrical subcode requirements relating to electrical receptacles and lighting outlets must be met? Is compliance with the 2014 NEC provisions and not the 2017 NEC provisions safe enough? The Department should be able to figure out what changes were made from 2014 NEC to 2017 NEC. Or was the intent that just the spacing and placement of the electrical outlets be in compliance and further compliance with the current electrical subcode for other items is not required? (Would still have to meet 2014 NEC requirements.) As example, do wall switches now need to be installed in certain locations that they were not previously required to be installed?

A building was built on January 1, 2013, (per NEC 2011 as amended by UCC with no changes) undergoes reconstruction. What electrical

subcode requirements relating to electrical receptacles and lighting outlets must be met that were not already met?

Continue responding to the above questions (working backwards) for buildings built per NEC 2008, 2005, 2002, 1999, 1996, 1993, 1990, 1987, 1984, 1981, 1978, 1975, 1971, 1959, 1956, 1937, 1923, and buildings built before 1900.

In addition, recalling that the UCC was effective January 1, 1977, and adopted various model codes including the 1975 NEC as amended by the UCC, would the single hardwired smoke detector required at that time for a single-family dwelling have to remain for the reconstructed building? Or would hardwired, interconnected, battery backup smoke detectors (carbon monoxide devices also?) have to be installed? Or would battery devices still be allowed in these reconstructed buildings since not related to receptacle or lighting outlets? (I am aware of the provisions contained at NJAC 5:23-6.27(a), 6.26(c), and (d), 6.7(f), and others.) I recall in some code or rule or code change proposal relating to the power source for smoke detectors that in existing dwelling units or sleeping areas where there is an attic, crawl space, or basement available which could provide access for electrical hard-wiring and interconnection or where existing finishes are removed exposing the structure providing means to hard-wire and interconnect, that smoke detectors are required to be hard-wired and interconnected with battery backup or in other words, meet current code provisions. Is this reflected in the NJ Rehab subcode?"

RESPONSE: The intent of this rulemaking, as stated in the Response to Comment 9 is that the spacing and placement of electrical outlets comply with the electrical subcode in effect at the time the rehabilitation project occurs.

The rehabilitation subcode applies to existing structures, in this case residential structures, regardless of the code in effect at the time of its construction. As such, the Department declines to provide a specific outline for how this would look for buildings built to each of the standards referenced by the commenter. Instead, the Department offers this explanation: for reconstructions in Groups R-2, R-3, R-4, and R-5, regarding electrical equipment and wiring, all areas shall have receptacle and lighting outlets in accordance with Sections 210.52 and 210.70, respectively, of the electrical subcode.

Smoke detection systems are outside the scope of this rulemaking. As noted by the commenter, requirements related to smoke detectors can be found within the rehabilitation subcode and are applicable within the appropriate scope of work.

18. COMMENT: The commenter asked, "what are the magical numbers and placement of receptacle and lighting outlets (and how they are operated and provided power - switched, branch circuit, independent) that the Department can justify for buildings undergoing reconstruction?" He then provided several former requirements related to number and spacing requirements for receptacles. He asked that the Department consider 1928 and 1933 NEC requirements for receptacles, as well as the 1940 and 1956 requirements. He noted the ampere requirements listed in the 1959 and 1965 editions of the NEC and stated that the Department should consider the outdoor receptacle requirements in the 1971 edition of the NEC. He further recommended that the Department consider the 1990 NEC kitchen and dining countertop receptacle requirements, as well as the 2020 NEC kitchen countertop spacing.

RESPONSE: The Department recognizes and appreciates the historical value of older editions of the National Electrical Code (NEC), adopted as the electrical subcode. Former code requirements inform the Department's decisions in moving to updated editions of the code. There is no "magic number" for receptacle and lighting outlets; this is clear throughout the history of the NEC, since, as noted by the commenter, the standards have continued to evolve over time. Though the Department recognizes the older requirements of the electrical subcode, it is not practical to list every former requirement of the NEC within the rehabilitation subcode or within guidance documents.

With respect to the rehabilitation subcode, the Department considers whether past requirements appropriately suit the needs of current State residents. Just as the NEC is updated to account for the newest available technologies and methods, the rehabilitation subcode is amended regularly to ensure that the existing building stock in the State can be updated to better suit residents. This adoption, which requires receptacle spacing in accordance with the electrical subcode, suits the evolving needs

of State residents, as well as recognizing the latest requirements of the electrical subcode.

19. COMMENT: The commenter noted that, "since there are several lighting outlet sections within the NEC that over the years have changed from switch control to wall switch control, please provide the justification for requiring existing switch controlled (pull chain) luminaries (lighting fixtures) to be modified or changed to wall switch controlled. Example: An owner has a vintage Tiffany stained glass pull chain light that he wants re-installed in the same location with the same operation to illuminate the area and he is totally adapted (using for over 60 years) to using the pull chain in the dark of night. What benefit does installing a wall switch to control this light across the room not near the entry way to the room have? (Assume NEC in this case does not require wall switch in a specific location)."

RESPONSE: The amendments to the rehabilitation subcode are not applicable to the hypothetical scenario above. If the NEC, as adopted as the electrical subcode, does not require a wall switch in a specific location, then the rehabilitation subcode would similarly not require a wall switch in a specific location. However, even if the owner were to install a wall switch in the course of a reconstruction project, the switch would control the receptacle that the light is plugged into, and the owner would still be able to use the pull chain; nothing within the required sections of the electrical subcode would prohibit a pull-chain light.

20. COMMENT: The commenter stated, "An existing single 15 ampere branch circuit prior to reconstruction of the building was providing electrical power to adequately spaced receptacles in two rooms with a total square footage of 900 square feet. Is another 15-ampere branch circuit required to be installed for the area if the building is reconstructed? Or if the square footage was 800 square feet, would the 15-ampere circuit need to be at least changed to a 20-ampere branch circuit with new properly sized wire? If this area is not part of the reconstruction, does AFCI protection still need to be provided if it is required by current NEC code? If the attached two car garage has a 15-ampere branch circuit for the existing garage receptacle, does it need to be updated per current NEC requirements? If independent circuits were not previously existing for appliances or equipment that the NEC now requires independent circuits, would independent circuits need to be provided? (Refrigerator, dishwasher, waste disposal, others) [The requirement that independent circuits are required by the proposed amendments is supported by the Department's deletion at NJAC 5:23-6.26(o)3 and 6.27(f)3 that required an independent laundry equipment circuit.] What impact does requiring these upgrades have on the existing electrical service? Currently, and in general, it appears 60 ampere services would need to be increased to at least 100 ampere (multifamily dwelling may still be able to utilize 60 ampere) or more based on electrical loading calculations. So electrical grounding would also need to be met. Or was the Department's intent to address only spacing and location of electrical outlets and not require, indirectly or directly, other upgrades? If aluminum feeder and branch circuit wiring is present does it need to be replaced? If a 200 ampere Federal Pacific electrical service panel with stab-lok breakers of adequate electric load capacity exists does it have to be replaced? Is a second electrical receptacle outlet required to be installed in a two car attached garage if only one currently exists? If the building owner owns a 2021 Tesla model X vehicle, can a 240 volt, 40 ampere receptacle outlet be required in the garage or near the area where the vehicle is to be parked? (And require electrical service upgrade to 200 ampere or maybe 400 ampere.)"

RESPONSE: As stated in the Response to Comment 9, the intent of this rulemaking is that the spacing and placement of electrical outlets be in compliance with the electrical subcode in effect at the time the rehabilitation project occurs. Because of these spacing and placement requirements, the former language related to electrical requirements throughout areas of the home are deleted, as they are no longer necessary; location requirements are specified within the required sections of the electrical subcode.

Because this rulemaking applies only to spacing and locations, 15 ampere branch circuits would not be required to be upgraded in garages, and independent circuits for appliances would not need to be provided. Branch circuit wiring and electric service panels are not required to be replaced pursuant to this rulemaking.

21. COMMENT: "The Department has provided in the proposed amendments an exception for kitchens, 'In the event that small appliance branch circuits cannot be installed, kitchen areas shall have...' Please clarify why this kitchen exception is necessary for a building undergoing reconstruction (gut rehab) considering the Department's proposed amendment requirements for other areas. Specific examples that would allow the kitchen area to have a minimum of two duplex receptacle outlets or equivalent and a switch controlled lighting outlet with at least one of the required duplex receptacles provided to serve counter space are requested to be provided. The allowance of a switch controlled lighting outlet (pull chain or wall) because small branch circuits cannot be installed seems a bit odd when considering the Department's proposed requirements for other areas. Just as the providing only one duplex receptacle to serve counter space (or spaces) regardless of dimensions does not seem quite right compared to other proposed device spacing requirements. Again, what event or events would cause small appliance branch circuits to be unable to be installed for a building undergoing reconstruction (gut rehab)? So the use of extension cords is not a concern here?"

RESPONSE: As stated in the Response to Comment 9, the language at this section has been changed upon adoption to ensure the intent of the rulemaking is clear. The exception for receptacle and lighting spacing and locations is still applicable to kitchens because it is the room most likely to require branch circuit upgrades to account for the increased number of receptacles. In this instance, the cost of upgrading the branch circuit would outweigh the benefit of complying with the current electrical subcode.

22. COMMENT: The commenter recommended that the Department evaluate what additional modifications should be made to the rehab subcode to address plumbing and mechanical fixtures and equipment. "The Department should evaluate what additional modifications to the NJ Rehab subcode should be proposed to address reasonable upgrading of plumbing and mechanical fixtures and equipment and building aspects to current code for buildings undergoing reconstruction. Such as revisions to address gut rehab when plumbing fixtures are not being upgraded (retaining the vintage pedestal sink with faucets and water closet of 3.5 gallons), and window size is not increased for egress compliance if not changing windows, and installation of a sediment trap on water heater if not changing water heater, others."

RESPONSE: The Department undertakes review of specific portions of the rehabilitation subcode when necessary to align its requirements with current common practices in rehabilitation and to increase building safety where there are demonstrated hazards within the existing rules. The Department will take these specific changes under advisement and may amend the rehabilitation subcode in the future if it is found that any of these items pose safety hazards and if those hazards could be abated by aligning the rehabilitation subcode with current requirements without adding undue cost to the owner.

23. COMMENT: "If the Department reviews the amendments made in the rehab subcode to trigger energy subcode upgrades (which I must say are somewhat well thought out as to when energy upgrades are necessary) and do the same for electrical and other aspects it would be, in my opinion, a better approach. But, if a building is undergoing a Department's gut job, for energy conservation purposes full compliance to the energy code might be reasonable to require and can be stated in one sentence. But then, if the total building is undergoing a Department's gut job it too can be stated in one sentence. Meet current codes. The problem seems to be, what requirements should be required when the work is not a total Department gut job but a reconstruction that does not include total replacement of all components of the building."

RESPONSE: A reconstruction, as defined by the rehabilitation subcode, is "any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied. Reconstruction may include repair, renovation, alteration or any combination thereof." The Department uses "gut job" throughout the summary statements of this rulemaking and throughout guidance documents because it is a term understood by the public. These phrases are synonymous.

This rulemaking does not require compliance with the entire electrical subcode during a reconstruction project, but rather with just the spacing and location requirements for receptacles.

Similarly, the Department declines to consider requiring the entire building be upgraded to meet the current energy subcode during rehabilitation projects. This would impose great costs to the homeowner that would not be offset by increases in safety or function.

24. COMMENT: The commenter stated that, "the Department has not proposed amendment to N.J.A.C. 5:23-6.26(o)6-8 or 6.27(f)6-8 so I'll make the assumption the sections should be retained as currently written. (OCDs not subject to physical damage, GFCIs, Tamper resistant receptacles - AFCIs covered?) In addition, N.J.A.C. 5:23-6.26(o)9 and 6.27(f)9 should be retained.

The Department should also consider what other provisions of the current adopted electrical subcode should be incorporated into the Rehab subcode that are not currently in the Rehab subcode. Examples: Exterior receptacle outlets, number of receptacle outlets for garage spaces and ampere size of circuit, receptacles, and lighting requirements for attic spaces where equipment requiring serving exists, AFCIs, others.

The global proposed adoption of NEC sections 210.52 and 210.70 is not recommended. The Department should abandon their 'one sentence approach' and look at each provision independently when amending the Rehab subcode. [And as implied previously, maybe other sections of the rehab subcode (repair, renovation, alteration, change of use, addition, and historic) should be upgraded when specific work is performed.]

RESPONSE: The commenter is correct in assuming that sections that have not been proposed for amendment would remain unchanged. In addition, the Department declines to maintain N.J.A.C. 5:23-6.26(o)9 and 6.27(f)9, because doing so would be redundant. Lastly, the example provided by the commenter includes language that is covered within Sections 210.52 and 210.70 of the electrical subcode; as such, the language as proposed appropriately addresses the location and spacing requirements. The Department disagrees that these upgrades should be required for the other categories of rehabilitation work, because the cost outweighs the benefit for those smaller projects.

25. COMMENT: The commenter recommended that "if any use group building is undergoing a reconstruction (a total gut rehab or as per the Department's colloquially known gut job) impose all the current building, plumbing, mechanical, electrical, energy, fire protection, and other subcodes to these buildings if technically feasible. And impose these requirements on all change of uses or change of character of the use of the building or portion of the building regardless that the change of use does not meet the definition of reconstruction and eliminate the Relative Group Hazard Index Tables. (Not recommended for historical buildings, but sections will need amendment due to references within.) And revise DCA Bulletin 98-1 to address the Department's gut job within reconstruction. And maybe include some radon hazard protective features such as requiring an electrical junction box (with electrical power when one does not exist) for a future in-line fan for homes in Tier 1 radon areas."

RESPONSE: The Department declines to make these changes at this time. The proposed amendments in this rulemaking address a current safety hazard that many contractors and homeowners have been addressing as ordinary course of business in reconstruction projects. The Department recognizes the issue as a safety hazard and has seen that requiring upgrades would not be unduly burdensome since many people undertaking work are choosing to update their receptacle and lighting outlet numbers to current code requirements. Many changes of use require only minimal upgrades; thus, the changes noted by the commenter would inflate the cost of construction without any additional benefit to public safety. This would be outside the intent and purpose of the rehabilitation subcode.

#### Federal Standards Statement

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

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

#### SUBCHAPTER 6. REHABILITATION SUBCODE

##### 5:23-6.26 Basic requirements—Groups R-2 and R-4

(a)-(n) (No change.)

(o) Electrical Equipment and Wiring:

1. All areas shall have receptacle and lighting outlets in accordance with Sections 210.52 and 210.70, respectively, of the electrical subcode.

i. In the event that **\*lighting and receptacle outlets cannot be installed in the required locations without updating the\*** small appliance branch circuits\*,\* **\*[cannot be installed,]\*** kitchen areas shall have a minimum of two duplex receptacle outlets or equivalent and a switch controlled lighting outlet. At least one of the required duplex receptacles shall be provided to serve counter space.

Recodify existing 6.-8. as 2.-4. (No change in text.)

(p)-(u) (No change.)

##### 5:23-6.27 Basic requirements—Groups R-3 and R-5

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

(f) Electrical Equipment and Wiring:

1. All areas shall have receptacle and lighting outlets in accordance with Sections 210.52 and 210.70, respectively, of the electrical subcode.

i. In the event that **\*lighting and receptacle outlets cannot be installed in the required locations without updating the\*** small appliance branch circuits\*,\* **\*[cannot be installed,]\*** kitchen areas shall have a minimum of two duplex receptacle outlets or equivalent and one switch controlled lighting outlet. At least one of the required duplex receptacles shall be provided to serve counter space.

Recodify existing 6.-8. as 2.-4. (No change in text.)

(g)-(h) (No change.)

(a)

## DIVISION OF CODES AND STANDARDS

### Notice of Readoption Uniform Construction Code Readoption: N.J.A.C. 5:23

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

Authorized By: Lt. Governor Sheila Y. Oliver, Commissioner,  
Department of Community Affairs.

Effective Date: February 9, 2022.

New Expiration Date: February 9, 2029.

**Take notice** that, pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 5:23 were scheduled to expire on March 25, 2022. These rules are intended to encourage innovation and economy in construction and provide requirements for construction and construction materials consistent with nationally recognized standards and ensure adequate maintenance of buildings and structures throughout the State to protect the health, safety, and welfare of the residents of the State pursuant to N.J.S.A. 52:27D-119 et seq., the Uniform Construction Code (UCC) Act.

This chapter contains 16 subchapters. Subchapter 1 contains general provisions and definitions. Subchapter 2 contains the processes for administration and enforcement of the UCC. Subchapter 3 adopts the national model codes for all of the subcodes of the UCC. Subchapter 4 details the requirements related to enforcement agencies and their duties. Subchapters 4A and 4D adopt requirements for industrialized/modular buildings and recreational park trailers, respectively. Subchapters 4B and 4C are reserved. Subchapter 5 contains the requirements for licensing of code enforcement officials. Subchapter 6 details the requirements for rehabilitation of existing buildings and structures. Subchapters 7 and 8 adopt the barrier free and asbestos hazard abatement subcodes, respectively. Subchapter 9 contains code interpretations. Subchapters 10 and 11 adopt the radon hazard and playground safety subcodes,

respectively. Subchapters 12 and 12A adopt requirements for elevator safety and include optional elevator inspection program information.

The Department of Community Affairs has reviewed the rules and has determined that they should be readopted without amendment. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to P.L. 2011, c. 45, these rules are readopted and shall continue in effect for a seven-year period.

## EDUCATION

(b)

### STATE BOARD OF EDUCATION

#### Notice of Readoption Qualified Zone Academy Bond Program

#### Readoption: N.J.A.C. 6A:25

Authority: N.J.S.A. 18A:4-15, 18A:7G-26, and 18A:36A-18; and 26 U.S.C. § 54E.

Authorized By: New Jersey State Board of Education, Angelica Allen-McMillan, Ed.D., Acting Commissioner, Department of Education, and Acting Secretary, State Board of Education.

Effective Date: February 9, 2022.

New Expiration Date: February 9, 2029.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 6A:25 were scheduled to expire on April 6, 2022. The Department of Education (Department) proposes to readopt N.J.A.C. 6A:25, Qualified Zone Academy Bond Program, without amendment, through a notice of readoption. Through the Federal Taxpayer Relief Act of 1997 (Pub. L. 105-34) and codified at 26 U.S.C. § 1397E, Congress created a school financing instrument—the Qualified Zone Academy Bond (QZAB)—to enable state and local governments, such as school districts, to borrow money from financial institutions at no interest, for costs incurred, to rehabilitate and repair schools, train teachers, develop curriculum, and invest in technology for “qualified zone academies” that serve large concentrations of low-income families. Federal code allocates to state education agencies the bond cap, which is the dollar limit on interest-free state bonding capacity that can be used to finance the costs at qualified zone academies; state education agencies, in turn, allocate the state bond cap to qualified zone academies within the state. As New Jersey’s State education agency, the Department is authorized to allocate the QZAB bond cap in New Jersey.

N.J.A.C. 6A:25 implements the Federal QZAB program for New Jersey. The rules include eligibility requirements for the QZAB program, procedures for application submission for school districts and charter schools applying on behalf of qualified zone academies, and criteria used for the Department’s review of applications.

This State’s QZAB program is best understood within the context of the Federal QZAB statutory and regulatory requirements. The Federal government subsidizes QZABs for a period of time, typically up to 15 years, by providing to bondholders tax credits that are approximately equal in value to the interest that state and local government entities would normally pay the holders of taxable bonds. As the Federal government provides the interest payment by means of a tax credit, the borrower, in this case, the debt issuer for a school district or charter school, is responsible only for repaying the QZAB principal. Certain banks, insurance companies, and corporations actively involved in the business of lending money can receive a tax credit as an incentive to hold QZABs.

To participate in the QZAB program, a public school must be designated as a “qualified zone academy” according to Federal requirements. A qualified zone academy must be located in a Federal empowerment zone or enterprise community, or have at least 35 percent of its student body qualify for free or reduced-price lunch under the National School Lunch Act. In collaboration with a private entity, a public school also develops a comprehensive educational program to expand learning opportunities and provide students with skills needed for the rigors of college and the increasingly complex workplace. The