

**COMMUNITY AFFAIRS**

**DIVISION OF CODES AND STANDARDS**

**Uniform Construction Code**

**Adopted Amendments: N.J.A.C. 5:23-2.2, 2.6, 2.7, 2.14, 2.15, 2.15A, 2.20, 2.23, 2.35,  
2.37, 3.2, 3.4, 3.8, 3.14, 3.15, 3.22, 4.26, 5.3 and 12.8**

Proposed: February 21, 2017 at 49 N.J.R. 306(a).

Adopted: \_\_\_\_\_, 2017 by Charles A. Richman, Commissioner,  
Department of Community Affairs.

Filed: \_\_\_\_\_, 2017 as R.2017 d. \_\_\_\_\_, **with technical changes** not  
requiring additional public notice and comment (see N.J.A.C. 1:30-6.3) and with N.J.A.C.  
5:23-2.15(b) and 5:23-2.15A(b)4 not adopted, but still pending.

Authority: N.J.S.A. 52:27D-124

Effective Date:

Expiration Date: March 25, 2022

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CHARLES A. RICHMAN  
Commissioner

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

Comments were received from Charles B. Barbee, Director of Recommendations, U.S. Chemical Safety and Hazard Investigation Board; Eric DeGesero, Executive Director, New Jersey Independent Electrical Contractors; Jeffrey Kolakowski, Vice President of Government Affairs, New Jersey Builders Association; Mitchell Malec, retired former employee of the Department of Community Affairs; and Ben Shapiro, Local Government and Regulatory Affairs Manager, New Jersey Realtors.

COMMENT 1: The US Chemical Safety and Hazard Investigation Board recognizes that the Department's proposal at N.J.A.C. 5:23-2.2 to declassify 'equipment, process, or operations that involve dust explosion hazards' as manufacturing, production, or process equipment – and thereby make it clear that such equipment is regulated by the Uniform Construction Code (UCC) – directly addresses the findings from the commenter's investigation of a flash fire in East Rutherford. The commenter encourages the Department to promulgate the proposed amendment as written.

RESPONSE: The Department thanks the commenter for this expression of support.

COMMENT 2: The commenter disagrees with the proposed amendment at N.J.A.C. 5:23-2.2(a)1 relating to the declassification of 'equipment, process, or operations that involve dust explosion hazards' as manufacturing, production, or process equipment. According to the commenter, the Department should follow the guidelines set by the Occupational Safety and Health Administration (OSHA), which facilitate the use of recognized and generally accepted good engineering practices. The commenter suggests that local code enforcing agencies and the Department will be less

prepared to adequately review dust collection systems than specialized engineers and recommends that the Department exempt dust collection systems designed by engineers that follow recognized and generally accepted good engineering practices provisions.

RESPONSE: The Department disagrees. This proposed amendment implements a suggestion made by the US. Chemical Safety and Hazard Investigation Board, and a design professional's services are required for all such applications.

COMMENT 3: The commenter notes that the proposed amendment at N.J.A.C. 5:23-2.2(a)1 does not include a matching amendment to the Uniform Fire Code, and suggests that the Uniform Fire Code is the key source of process equipment compliance. The commenter asks if the Department has considered the impact that the proposed amendment would have on the Uniform Fire Code.

RESPONSE: No corresponding amendment to the Uniform Fire Code is required. N.J.A.C. 5:70-3, the State Fire Prevention Code, requires equipment installed in accordance with the Uniform Construction Code to be properly maintained.

COMMENT 4: The commenter disagrees with the Department's definition of combustible dust particles, and claims that larger particles may pose a deflagration hazard. The commenter recommends that the Department regulate combustible particulate solids, which include dust particles, among other things. The commenter also suggests a definition of combustible dust.

RESPONSE: The Department thanks the commenter for these suggestions. The instant rule is limited to combustible dust as described, but the Department will take those suggestions under advisement and will consider future proposals if warranted.

COMMENT 5: The commenter suggests that the regulation of combustible dust implies that other aspects of equipment, process, and operations should also be regulated, and provides a list of these cases.

RESPONSE: The instant rule addresses only the combustible dust issue. The Department will take this suggestion under advisement.

COMMENT 6: The commenter suggests that the Department designate combustible dust at N.J.A.C. 5:23-3.11, which applies to enforcement activity reserved to the Department.

RESPONSE: The Department disagrees that it is necessary to include combustible dust in the finite list of enforcement activities reserved to the Department.

COMMENT 7: The commenter is opposed to the amendment at N.J.A.C. 5:23-2.7(c)3i, citing concerns related to the alleged reduction in safety. The commenter states that extending ordinary maintenance to lighting fixtures and “parts thereof” increases the likelihood that non-licensed personnel will perform such services, which would increase risk. Additional considerations related to LED lighting further complicate the associated electrical work.

RESPONSE: The question of whether a permit is required and the question of whether a licensed contractor must perform the work are separate. The proposal addresses only the permitting requirements of the Uniform Construction Code. The Department does not agree that safety is compromised.

COMMENT 8: The commenter also alleges that because the amendment at N.J.A.C. 5:23-2.7(c)3i removes the voltage limit with respect to the electrical fixtures being replaced, the voltage may increase to potentially hazardous levels, such as 277 and 480 volts, which may be worked on by unlicensed personnel.

RESPONSE: See response to 7 above.

COMMENT 9: The commenter states that proposed amendment at N.J.A.C. 5:23-2.7(c)5vi does not account for cases when the replacement hood of a range does exceed 400 cubic feet per minute.

RESPONSE: The amendment defines what counts as ordinary maintenance. Items not listed under ordinary maintenance would require a permit under the Uniform Construction Code.

COMMENT 10: The commenter requests that, with respect to proposed amendment at N.J.A.C. 5:23-2.7(c)5vi related to kitchen range hoods, CAZ testing be performed to assure that the depressurization does not cause backdrafting of any combustion appliances.

RESPONSE: The Department does not believe that greater measures to account for kitchen range depressurization are necessary considering the current requirements in place in the 2015 International Mechanical Code, which states at 505.2, “exhaust hood systems capable of exhausting in excess of 400 cfm shall be provided with makeup air at a rate approximately equal to the exhaust air rate.” Therefore, the makeup air requirements currently in the code are meant to prevent depressurization issues.

COMMENT 11: The commenter claims that the exemption from requiring a construction permit for ‘the installation of a storable spa or hot tub’ is better located at N.J.A.C. 5:23-2.14(b) than it is at N.J.A.C. 5:23-2.7.

RESPONSE: The proposed amendment could arguably go in either place. Ordinary maintenance (the listing of those items that may be performed without permits) is codified at N.J.A.C. 5:23-2.7 and this is the place the Department has chosen.

COMMENT 12: Regarding the amendment at N.J.A.C. 5:23-2.7, the commenter states that the terminology characterizing “storable spa or hot tub” needs clarification and further details. The commenter explains what the definition of a storable spa and tub is according to the National Electric Code (NEC), provides a list of other possible specifications for portable spas and tubs, and claims that the classification does not include a requirement for the spa or tub to be cord connected.

RESPONSE: The Department expects that the terminology, as proposed, is clear enough. If there is future confusion, the Department will consider clarifying what is intended through a Communicator article or bulletin.

COMMENT 13: The commenter suggests that the proposed amendment at N.J.A.C. 5:23-2.7 relating to the installation of a storable spa or tub fails to account for other relevant safety issues, including but not limited to, considerations related to indoor or outdoor spas or tubs, voltage levels, the impact of ceiling fan services lines, ventilation if installed indoors, and door alarms. In order to take care of these potential safety hazards, the commenter suggests referring to the ASTM F1346.

RESPONSE: The Department disagrees that the imposition of additional requirements under ASTM F1346 is necessary.

COMMENT 14: The commenter claims that the replacement of kitchen range hoods and the replacement of bathroom exhaust fans, which apply to dwellings, at N.J.A.C. 5:23-2.7(c)5vi, should be extended to all uses as an ordinary maintenance category.

RESPONSE: The Department cannot make such a change upon adoption, but will consider it for a future proposal.

COMMENT 15: The commenter states that the amendments at N.J.A.C. 5:23-2.15(f) maintain outdated references to Bulletin 11-1, IECC/2009, and ASHRAE/2007.

RESPONSE: The amendments replace the outdated references, and the Department appreciates that the commenter supports their replacement. For example, Bulletin 11-1 is replaced with a reference to the “current energy subcode compliance bulletin”, which at this time is Bulletin 15-4.

COMMENT 16: The commenter notes that, with respect to the proposed amendment at N.J.A.C. 5:23-2.15(f)1.vi.(1), the reference to “above code” program documentation lacks clarity and may create confusion. The commenter recommends removing such language.

RESPONSE: “Above code” refers to programs where participation is voluntary and results in buildings that exceed the energy conservation requirements of the adopted energy subcode. Because there may be more than one such program, and the names of the New Jersey programs may change, it is better for the rule to allow the flexibility to accept other or future program documentation.

COMMENT 17: The commenter expresses approval of the proposed amendments, stating that the changes will make it easier and more affordable for homeowners to do work on their homes. The commenter notes that, due to the ongoing recovery related to Superstorm Sandy, the exemption proposed at N.J.A.C. 5:23-2.37 related to sewer or water service disconnection is one that is favorable to homeowners.

RESPONSE: The Department thanks the commenter for this expression of support.

### **Summary of agency-initiated changes**

1. Corrections have been made at N.J.A.C. 5:23-3.4(d), 3.4(d)1, and 5.3(a) reflecting changes in group categories. The rules for mechanical inspections apply to one- and two-family dwellings, Groups R-3 and R-5. As defined in Chapter 3 of the IBC/2015, Group R-4 applies to therapeutic residences and is not the same as a one- or two-family dwelling. Accordingly, the reference to Group R-4 is deleted upon adoption.

2. Corrections have been made at N.J.A.C. 5:23-3.14(b) upon adoption as a proposed new section number for the building subcode, 1107.5.5., already exists. To avoid duplicate numbering, the Department is assigning a new section number, 1107.5.2.3. As a result of the new section numbering, related sections were renumbered accordingly.

### **Federal Standards Statement**

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

**Full text** of the adopted amendments follows (addition to the proposal indicated in boldface with asterisks **\*thus\***; deletion from proposal indicated in brackets with asterisks \*[thus]\*):

5:23-3.4 Enforcement

(a) – (c) (No change.)

(d) Any mechanical inspector employed by the Department or by a municipality, and so assigned by the construction official, shall have the responsibility for enforcement of the provisions of the code, except work involving the installation or replacement of backflow preventers or electrical work, for the installation and replacement of heating or cooling equipment or water heaters or other mechanical equipment, such as refrigeration, air conditioning or ventilating apparatus, gas piping or heating systems, or stand-by power generators, in existing buildings of Group R-3\*[ R-4,]\* or R-5. For a new installation, the mechanical inspector shall have this enforcement responsibility provided that the installation does not penetrate a fire-rated assembly.

1. When no mechanical inspector is assigned, the construction official shall assign the plumbing subcode official or a plumbing inspector, who shall have the responsibility for the enforcement of provisions of the code, except electrical, for the installation and replacement of heating or cooling equipment or water heaters or other mechanical equipment, such as refrigeration, air conditioning or ventilating apparatus, gas piping or heating systems, or stand-by power generators, in existing buildings of Group R-3\*[ R-4,]\* or R-5. A plumbing subcode official or plumbing inspector need not be a mechanical inspector to perform these inspections.

5:23-3.14 Building subcode

(a) (No change.)

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

1. – 9. (No change.)

10. Chapter 11, Accessibility, shall be amended as follows:

i. – vi. (No change.)

Recodify existing vii. – ~~[xix.]~~ ~~xvii.~~ as viii. – ~~[xx.]~~ ~~xviii.~~ (No change in text.)

~~[xxi.]~~ ~~xix.~~ Section ~~[1107.5.5]~~ ~~1107.5.2.3~~ shall be added as follows:

~~[1107.5.5]~~ ~~1107.5.2.3~~: **Assisted living.** Assisted living facilities that are licensed by the Department of Health are Group I-2 for compliance with the building subcode, fire protection subcode, and the other subcodes of the Uniform Construction Code and shall be Group R-2 for the purposes of accessibility.

~~[1107.5.5.1.]~~ ~~1107.5.2.3.1~~ Dwelling units that are available for occupancy only for 30 or more consecutive days shall be required to comply with Section 1003 of ICC/ANSI A117.1.

~~[1107.5.5.2.]~~ ~~1107.5.2.3.2~~ Where an assisted living facility includes dwelling units or rooms that are available for occupancy for fewer than 30 consecutive days, 50 percent of those dwelling units or rooms shall be accessible in conformance with Section 1002 of ICC/ANSI A117.1 and shall include one full bathroom that complies with Section 1002 of ICC/ANSI A117.1 and, where a kitchen is provided, it shall comply with Section 1002 of ICC/ANSI A117.1.

~~[1107.5.5.3.]~~ ~~1107.5.2.3.3~~ In dwelling units in an assisted living facility that are designated Group R-2 for the purposes of accessibility, the following may be adaptable:

\*[1107.5.5.3.1]\* **\*1107.5.2.3.3.1\*** The threshold for an accessible transfer shower may be adaptable as long as the shower threshold can be adapted with minimal expense and effort to be accessible; and

\*[1107.5.5.3.2]\* **\*1107.5.2.3.3.2\*** A transfer-type shower of 36 inches by 48 inches that includes an accessible seat may be provided in individual dwelling units. The threshold of this shower shall not exceed four inches.

Recodify existing \*[xx.-l.]\* **\*xviii.-l.\*** as \*[xxii. – lii.]\* **\*xx.-lii.\*** (No change in text.)

11. – 26. (No change.)

#### 5:23-5.3 Types of licenses and certifications

(a) Rules concerning code enforcement licensure and certification categories are:

1. Technical licenses: Subject to the requirements of this subchapter, persons may apply for and may be licensed in the following specialties:

i. – vi. (No change.)

vii. Mechanical inspector: Mechanical inspectors are authorized to carry out field inspection and plan review work for all work under the mechanical subcode in existing structures of Group R-3 \*[, R-4]\* or R-5. Only a person already holding a valid inspector's license may apply for a mechanical inspector's license.

2. – 4. (No change.)