

# RULE PROPOSALS

## INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

## COMMUNITY AFFAIRS

### (a)

#### DIVISION OF CODES AND STANDARDS

#### Uniform Construction Code Manufactured Homes

**Proposed Amendments: N.J.A.C. 5:23-1.1, 2.2, 2.22,  
3.21, and 6.8**

**Proposed Repeals: N.J.A.C. 5:23-3.19, 4B, and 4C**

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

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

Calendar: See Summary below for explanation of exception to  
calendar requirement.

Proposal Number: PRN 2019-007.

Submit written comments by March 8, 2019, to:

Geraldine Callahan  
Department of Community Affairs  
PO Box 800  
Trenton, New Jersey 08625  
Fax No. (609) 984-6696  
[geraldine.callahan@dca.nj.gov](mailto:geraldine.callahan@dca.nj.gov)

The agency proposal follows:

#### Summary

The Federal government has notified New Jersey that its permitting and inspection process under the Uniform Construction Code (UCC) does not satisfy the Federal requirements for the installation of manufactured homes. Manufactured homes are premanufactured, Federally labeled housing that is transported on a chassis. Traditionally, New Jersey had honored the Federal label on these units for their construction, which occurs off-site at a factory and had issued building permits for the installation of such units. The work that was done on-site was required to meet New Jersey building codes, and inspections of the installation were performed by local enforcing agencies (building departments).

The Manufactured Home Improvement Act of 2000 directed the Federal Department of Housing and Urban Development (HUD) to develop model installation standards for manufactured housing. HUD promulgated rules in 2008. New Jersey had argued that the legislative intent of the installation standards was to establish criteria in jurisdictions where there were none, and HUD had allowed New Jersey's program of inspections through its Statewide building code as an equivalent program. However, in 2016, HUD notified New Jersey that its building code was no longer sufficient, and that the legislative intent was for jurisdictions to have a program that was equivalent to or exceeded the Federal

requirements. Based on 24 CFR Part 3286, in order to have a qualifying state installation program, New Jersey would have to do the following:

1. Amend the UCC to include installation standards specifically for manufactured housing that are at least as stringent as those found in 24 CFR Part 3285.
2. Develop a system for the training and licensing of manufactured home installers.
3. Have a system for the inspection of manufactured homes.

New Jersey adopts model building codes to regulate building construction in the State. Those model codes do not contain installation requirements that are specific to manufactured housing. Establishing equivalency would be difficult because the model codes are, for the most part, performance based, while the Federal requirements are more specification based. In addition, while both codes establish performance criteria, they are not always congruent. To meet the requirements of 24 CFR Part 3285, New Jersey would have to establish different wind zones for manufactured homes, establish foundation requirements that are different than those found in the adopted model codes, establish different fire separation distances for manufactured homes, and establish different soil bearing capacities for manufactured homes. This is in addition to introducing numerous other specification requirements for manufactured homes, such as the type of anchoring system that can be used and how those anchors are spaced.

Beginning in May of 2016, HUD asserted jurisdiction for the installation of manufactured homes in New Jersey. Currently, installers are required to meet both the requirements under the New Jersey Uniform Construction Code, as well as comply with the Federal program. While this arrangement is allowed under Federal law, it is a duplication of effort that increases the cost of installation on a segment of the residential market that is often an affordable housing option.

A second option would be to adopt the Federal requirements for the installation of manufactured housing. This would create a separate set of standards for manufactured housing work. In addition to creating a different set of standards, the Department of Community Affairs (Department) would also have to develop a system of licensing and training manufactured home installation contractors. Finally, the Department would have to train building inspectors on the differences between the code for manufactured home installation and the code for all other types of construction. This would require considerable effort and expense on the part of the Department.

The proposed amendments would remove the Department's status as a State Administrative Agency for HUD. The Federal government would be responsible for oversight of the installation of manufactured homes in the State of New Jersey. Installation contractors would be required to be licensed by HUD and would be required to attend continuing education classes as required by HUD. Installations would be inspected by third-party inspectors approved by HUD. A certification that the installation meets the requirements of the Federal installation standards would have

to be completed. In addition, any complaints regarding the installation of a manufactured home would also be referred to HUD for resolution. There are, on average, about 300 to 400 manufactured homes installed annually Statewide. A section-by-section description of the proposed amendments follows:

1. N.J.A.C. 5:23-1.1(b) lists each of the subchapters of the Uniform Construction Code. N.J.A.C. 5:23-1.1(b)6 and 7, which list the manufactured housing subchapters, N.J.A.C. 5:23-4B and 4C, would be deleted because those subchapters are proposed for repeal.

2. Proposed new N.J.A.C. 5:23-2.2(a)2 would be added to clarify that manufactured housing constructed and installed under 24 CFR Parts 3480 and 3285 is not under the jurisdiction of the Uniform Construction Code. The paragraph would further state that the relocation or alteration of such homes is under the scope of the Uniform Construction Code.

3. At N.J.A.C. 5:23-2.22(a), references to Subchapters 4B and 4C would be deleted because those subchapters are proposed for repeal.

4. At N.J.A.C. 5:23-2.22(b), a proposed amendment would clarify the requirement that the appropriate subcode official is to inspect the installation of any premanufactured unit or assembly for other than manufactured homes.

5. N.J.A.C. 5:23-3.19, Manufactured home subcode, is proposed for repeal. This subcode adopted the Federal Manufactured Home Construction Safety Standards.

6. At N.J.A.C. 5:23-3.21(c)3xl, in the one- and two-family dwelling subcode, the proposed amendment would delete the provisions for new and replacement manufactured homes and clarify that only relocated manufactured homes are required to follow Section R322.1.9, Manufactured homes, of the International Residential Code/2015.

7. N.J.A.C. 5:23-4B, Manufactured Homes and Manufactured Home Add-On Units, is proposed for repeal. This subchapter applied to the design, manufacture, and installation of manufactured homes and manufactured home add-on units.

8. At N.J.A.C. 5:23-4C, Enforcement of Federal Manufactured Home Standards, is proposed for repeal. This subchapter granted the Department the authority as a State Administrative Agency to enforce the Federal manufactured home construction and safety standards.

9. At N.J.A.C. 5:23-6.8, a reference to the manufactured housing subcode, N.J.A.C. 5:23-3.19 would be deleted because that section is proposed for repeal. A reference to 24 CFR Part 3280 would be added instead, as the manufactured home materials and methods requirements for the rehabilitation subcode.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

#### **Social Impact**

The proposed amendments and repeals will eliminate duplicate installation requirements and enforcement systems for the installation of manufactured homes. Currently, those installing manufactured homes must file for building permits through their local building department under the Uniform Construction Code and contract with a Federally approved third-party inspector to certify the installation meets the standards at 24 CFR Part 3285 under HUD's requirements. This duplication of effort results in the inefficient use of government resources and leads to increased time and expense for installers and homeowners.

While the Department believes the system of permitting and inspections results in better assurances that the project complies with all necessary codes, the difference in effectiveness does not justify having two different compliance systems. The Federal system of compliance is what HUD has deemed adequate for the protection of manufactured homes and will provide suitable safeguards for the public.

#### **Economic Impact**

The proposed amendments and repeals will have a positive economic impact on those installing and purchasing manufactured homes by eliminating the need to obtain local building permits. The economic benefits include saving on building permit fees and eliminating delays in the construction process while inspections are scheduled and performed. It is anticipated that some of those savings will be passed on to purchasers.

The proposed amendments to discontinue the State's role as a State Administrative Agency will have a neutral economic impact on the

Department. The Department received a "label" fee for each unit that was shipped into New Jersey. Those fees offset the cost to the Department of administering the program. Under the proposed amendments, the Department would no longer be eligible for the label fee, but it would also no longer incur the expense of administering the program.

Because of the scale of manufactured housing installation in New Jersey, the Department does not anticipate any adverse economic impact on municipalities due to lost permit fees. There are between 300 and 400 manufactured homes installed throughout the State annually. Therefore, it is unlikely that the loss of revenue will have a significant impact on municipal budgets.

#### **Federal Standards Statement**

The proposed amendments and repeals would discontinue New Jersey's role as a State Administrative Agency for manufactured housing that is constructed or placed in New Jersey. The proposed amendments would make the Federal Department of Housing and Urban Development (HUD) responsible for overseeing the manufacture and installation of manufactured homes within the State. Therefore, the proposed amendments and repeals do not exceed the Federal requirements, but shift the sole responsibility for the enforcement of the Federal requirements to the Federal government.

#### **Jobs Impact**

The Department does not anticipate that the proposed amendments and repeals, which discontinue the State's role as an Administrative Agency for manufactured housing, will result in the creation or loss of any jobs.

#### **Agriculture Industry Impact**

The Department does not anticipate that the proposed amendments and repeals, which pertain to manufactured housing, will have any impact on the agriculture industry.

#### **Regulatory Flexibility Statement**

The proposed amendments and repeals affect manufactured home installers, many of which meet the definition of small businesses, as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments and repeals do not impose reporting, recordkeeping, or other compliance requirements on small businesses. Because the proposed amendments and repeals remove the State oversight of the installation of manufactured homes, it will not have any adverse effect on the installers of manufactured homes regardless of business size.

#### **Housing Affordability Impact Analysis**

The Department does not anticipate that the proposed amendments and repeals will have any impact on the average costs of housing or the affordability of housing. This rulemaking removes State oversight of the installation of manufactured housing and does not impact housing affordability. The proposed amendments and repeals would reduce the permit fees associated with the installation of manufactured homes, which are often an affordable housing option.

#### **Smart Growth Development Impact Analysis**

The Department does not anticipate that the proposed amendments and repeals, which remove State oversight of the installation of manufactured homes, will have any impact on housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

#### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

**Full text** of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 5:23-3.19, 4B, and 4C.

**Full text** of the proposed amendments follow (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

5:23-1.1 Title; division into subchapters

- (a) (No change.)
- (b) The chapter consists of the following subchapters:
  - 1.-5. (No change.)

[6. “Manufactured Homes and Manufactured Home Add-On Units Not Subject to Federal Regulations” which may be cited throughout the regulations as N.J.A.C. 5:23-4B and when referred to in subchapter 4B may be cited as this subchapter.

7. “Enforcement of Federal Manufactured Home Standards” which may be cited throughout the regulations as N.J.A.C. 5:23-4C and when referred to in subchapter 4C may be cited as this subchapter.]

Recodify existing 8.-17. as **6.-15.** (No change in text.)

SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

5:23-2.2 Matter covered

(a) The provisions of the regulations shall apply to all buildings and structures and their appurtenant construction, including vaults, area and street projections, and accessory additions; and shall apply with equal force to municipal, county, State, and private buildings, except where such buildings are otherwise specifically provided for by the regulations.

1. (No change.)

**2. Manufactured housing constructed and installed under 24 CFR Parts 3480 and 3285, respectively, is not under the jurisdiction of the Uniform Construction Code. The relocation or alteration of manufactured homes is under the scope of the Uniform Construction Code.**

(b)-(e) (No change.)

5:23-2.22 Premanufactured construction

(a) Premanufactured construction certified in accordance with N.J.A.C. 5:23-4A [through] and 4D, as applicable, and carrying an appropriate label, shall be accepted as conforming to the requirements of the regulations to the extent provided for by the particular label for purposes of local construction inspection approval.

1.-3. (No change.)

(b) The appropriate subcode officials shall inspect the installation of any premanufactured unit or assembly **other than the initial installation of manufactured homes** and all work installed or completed on site to determine compliance with the regulations and the approved plans.

SUBCHAPTER 3. SUBCODES

**5:23-3.19 (Reserved)**

5:23-3.21 One- and two-family dwelling subcode

(a)-(b) (No change.)

(c) The following chapters or sections of the IRC/2015 shall be modified as follows:

1.-2. (No change.)

3. Chapter 3, Building Planning, shall be amended as follows:

i.-xxxix. (No change.)

xl. In Section R322.1.9, Manufactured homes, in the first sentence, **“new and replacement” shall be deleted and “relocated” shall be inserted in lieu thereof.**

xli.-xlvi. (No change.)

4.-24. (No change.)

**SUBCHAPTERS 4B. AND 4C. (RESERVED)**

SUBCHAPTER 6. REHABILITATION SUBCODE

5:23-6.8 Materials and methods

(a)-(j) (No change.)

(k) Manufactured Home Materials and Methods: The following sections of [the manufactured home subcode (N.J.A.C. 5:23-3.19)] **Part 3280 of Title 24 of the Code of Federal Regulations** shall constitute the manufactured home materials and methods requirements for this subcode:

1. (No change.)

(l) (No change.)

**EDUCATION**

**(a)**

**STATE BOARD OF EDUCATION**

**Controversies and Disputes**

**Proposed Amendments: N.J.A.C. 6A:3-1.1, 1.2, 1.4, 8.1, and 12.1**

Authorized By: Lamont O. Repollet, Ed. D., Commissioner, Department of Education, Secretary, State Board of Education.

Authority: N.J.S.A. 18A:6-9.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2019-010.

Submit written comments by March 8, 2019, to:

Samantha L. Price, Director  
Office of Controversies and Disputes  
New Jersey Department of Education  
100 River View Plaza  
PO Box 500  
Trenton, New Jersey 08625-0500  
E-mail: [chapter3@doe.nj.gov](mailto:chapter3@doe.nj.gov)

The agency proposal follows:

**Summary**

The Department of Education (Department) proposes to amend N.J.A.C. 6A:3, Controversies and Disputes. This chapter sets forth the rules of procedure established by the Department for the filing of petitions with the Commissioner of Education (Commissioner) to hear and decide controversies and disputes arising under school laws in accordance with N.J.S.A. 18A:6-9.

The proposed amendments will reduce the procedural requirements when filing documents with the Office of Controversies and Disputes and will allow parties to submit documents to the Department electronically. Other amendments are proposed to increase clarity and remove obsolete or confusing references in the rules.

The following summarizes the proposed amendments:

**Subchapter 1. General Provisions**

**N.J.A.C. 6A:3-1.1 Purpose and Scope**

This section sets forth the general purpose and scope of the chapter.

The Department proposes an amendment at N.J.A.C. 6A:3-1.1(b)6, to amend the statutory cross-reference to N.J.S.A. 18A:39-26 et seq. The proposed amendment is necessary because the “School Bus Safety Act” is codified at N.J.S.A. 18A:39-26. The same amendment is proposed at the heading of Subchapter 12 and N.J.A.C. 6A:3-12.1(a) and (c)1.

The Department proposes an amendment to N.J.A.C. 6A:3-1.1(d) to delete “or requests for relief arising out of legal decisions of the State Board of Education” because it is no longer applicable. As a result of P.L. 2008, c. 36, the Commissioner has jurisdiction over all controversies and disputes arising under State school laws. The State Board of Education has not rendered any legal decisions since 2008.

**N.J.A.C. 6A:3-1.2 Definitions**

This section defines words and terms used throughout the chapter.

The Department proposes an amendment to the definition of “filing,” to replace “an original paper” with “a document, in either paper or electronic form” and “by facsimile” with “by regular or electronic mail,” respectively. The Department also proposes to delete the requirements that facsimile filings must be pre-approved, not exceed 10 pages, conform to submission requirements, and be accompanied by a statement that the original document will follow by mail or hand delivery. The proposed amendments will allow parties to submit documents to the Department electronically.