

# 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

##### Subcodes

##### Rehabilitation Subcode

##### **Proposed Amendments: N.J.A.C. 5:23-3.4 and 6.9**

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

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

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

Proposal Number: PRN 2021-011.

Submit written comments by March 20, 2021, to:

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The agency proposal follows:

#### Summary

Upon the adoption of the 2018 model codes (see 51 N.J.R. 285(a); 1399(a)), the Department of Community Affairs (Department) proposed amendments to N.J.A.C. 5:23-3.4, Enforcement responsibilities, to align the content of the section with the model codes. In reviewing these amendments, certain oversights and inconsistencies have been identified that the Department now seeks to remedy. The changes in this rulemaking pertain to International Building Code (IBC) Section 3111, Solar energy systems, IBC Section 3112, Greenhouses, and International Residential Code (IRC) Section 324, Solar thermal systems. Formerly, Section 3111 contained blanket designations in which responsibility for plan reviews resided with building and fire protection subcode officials and responsibility for inspections resided with fire protection subcode officials. The proposed amendments will specify plan review and inspection responsibilities by subsection, so as to mirror the responsibility breakdown assigned in IRC Section 324. Similarly, the responsibility for plan review and inspection will be assigned for Section 3112, Greenhouses. Additionally, in the 2015 International Building Code (IBC), exception 1 of Section 1009.1 did not require accessible means of egress to be provided in existing buildings. In the adopted 2018 IBC, this exception was removed and likely placed in the International Existing Building Code. As a result, the State's existing building code, the

Rehabilitation Subcode (N.J.A.C. 5:23-6), must be updated to include this provision.

A section by section summary of the proposed amendments follows.

#### N.J.A.C. 5:23-3.4, Responsibilities

##### Building Subcode

1. At Section 3111, Solar energy systems, responsibilities assigned would be deleted; responsibilities are to be delineated based on subsection.

2. At Section 3111.1, General, building subcode officials would be included in both plan review and inspection responsibilities because the section addresses wind resistance and roof live loads.

3. At Section 3111.2, Solar thermal systems, electrical, fire protection, and plumbing subcode officials would be included in the plan review responsibilities, as applicable, and electrical subcode officials would be included in inspection responsibilities. These changes will mirror the responsibilities assigned at Section R324.2, Solar thermal systems.

4. At Section 3111.3.1, Equipment, electrical subcode officials would be included in both plan review and inspection responsibilities because the section applies to the equipment utilized in photovoltaic solar energy systems. This change will mirror the responsibilities assigned at Section R324.3, Photovoltaic systems, containing R324.3.1, Equipment listings.

5. At Section 3111.3.2, Fire classification, building subcode officials would be included in both plan review and inspection responsibilities. This change will mirror the responsibilities assigned at Section R324.4.2, Fire classification.

6. At Section 3111.3.3, Building-integrated photovoltaic systems, building subcode officials would be included in both plan review and inspection responsibilities because the section applies to photovoltaic systems that have been integrated as roof coverings. This change will mirror the responsibilities assigned at Section R324.5, Building-integrated photovoltaic systems.

7. At Section 3111.3.4, Access and pathways, fire protection subcode officials would be included in both plan review and inspection responsibilities because the section applies to roof access, pathways, and spacing requirements. This change will mirror the responsibilities assigned at Section R324.6, Roof access and pathways.

8. At Section 3111.3.5, Ground-mounted photovoltaic systems, plan review would be assigned to electrical and fire protection subcode officials and inspections to electrical subcode officials. This change will mirror the responsibilities assigned at Section R324.7, Ground-mounted photovoltaic systems.

9. At Section 3111.3.5.1, Fire separation distances, plan review would be assigned to building and fire protection subcode officials and inspections to building subcode officials. This change will mirror the responsibilities assigned at Section R324.7.1, Fire separation distances.

10. At Section 3112, Greenhouses, building subcode officials would be included in both plan review and inspection responsibilities.

**One- and Two-Family Dwelling Subcode**

11. At Section R324.2, Solar thermal systems, fire protection and plumbing subcode officials would be included in plan review responsibilities, as applicable. This change corresponds to the expanded coverage at Section 3111, Solar energy systems, which now includes solar thermal energy systems relating to the plumbing code, as well as PV systems.

12. Section R324.3, Photovoltaic systems, would be separated from R324.2, as it will retain the electrical subcode official responsibilities for plan review and inspections that formerly applied to both sections.

13. Section R324.4, Rooftop-mounted photovoltaic systems, and Section R324.5, Building-integrated photovoltaic systems, will be grouped together, as both include building subcode officials for both plan review and inspection responsibilities.

**N.J.A.C. 5:23-6 Rehabilitation Subcode**

14. At N.J.A.C. 5:23-6.9, amendments would specify that Section 1009 shall not be applicable within the references of Section 1022. In doing so, this proposed amendment would ensure that accessible means of egress would not be required in existing buildings; this aligns with the previously adopted editions of the IBC and maintains the status quo for new building elements.

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

**Social Impact**

The proposed amendments to the Uniform Construction Code are expected to have a positive social impact. This rulemaking will ensure that the Uniform Construction Code accurately reflects the requirements of the model codes, as adopted by reference at Subchapter 3. Thus, the code will provide code users with the most accurate and consistent information.

**Economic Impact**

The proposed amendments ensure that all sections of the Uniform Construction Code are consistent with the model codes. These changes assign responsibilities among local code officials and add a citation to the rehabilitation subcode and are not expected to have an economic impact.

**Federal Standards Statement**

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

**Jobs Impact**

The proposed amendments align the Responsibilities and the Rehabilitation Subcode to match the national model codes and are not expected to have an impact on the creation or loss of jobs, as the implementation of the amendments will be executed in the ordinary course of construction.

**Agricultural Industry Impact**

The Department does not anticipate that the proposed amendments would have any effect on the agricultural industry.

**Regulatory Flexibility Analysis**

The proposed amendments align the Responsibilities and the Rehabilitation Subcode to match the national model codes. This rulemaking affects local enforcing agencies, which are not considered small businesses as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As such, no regulatory flexibility analysis is required.

**Housing Affordability Impact Analysis**

The proposed rulemaking aligns the Responsibilities and the Rehabilitation Subcode to match the national model codes. It would not have an impact on housing production costs or affect affordability of housing.

**Smart Growth Development Impact Analysis**

The proposed amendments align the Responsibilities and the Rehabilitation Subcode to match the national model codes and would not

have any impact upon housing production within 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.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

**SUBCHAPTER 3. SUBCODES****5:23-3.4 Responsibilities**

(a) The enforcement responsibilities of the adopted subcodes are as follows:

## 1. Building Subcode:

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
...			
Ch. 31	Special Construction		
...			
	[3111]	Building/Fire	Fire]
	<b>3111.1</b>	<b>Building</b>	<b>Building</b>
	<b>3111.2</b>	<b>Electrical/Fire/Plumbing</b>	<b>Electrical</b>
	<b>3111.3.1</b>	<b>Electrical</b>	<b>Electrical</b>
	<b>3111.3.2</b>	<b>Building</b>	<b>Building</b>
	<b>3111.3.3</b>	<b>Building</b>	<b>Building</b>
	<b>3111.3.4</b>	<b>Fire</b>	<b>Fire</b>
	<b>3111.3.5</b>	<b>Electrical/Fire</b>	<b>Electrical</b>
	<b>3111.3.5.1</b>	<b>Building/Fire</b>	<b>Building</b>
	<b>3112</b>	<b>Building</b>	<b>Building</b>
...			

2.-5. (No change.)

## 6. One- and Two-Family Dwelling Subcode:

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
Ch. 3	Building Planning		
...			
	[R324.2-R324.3]	[Electrical]	Electrical
	<b>R324.2</b>	<b>Electrical/Fire/Plumbing</b>	
	<b>R324.3</b>	<b>Electrical</b>	<b>Electrical</b>
...			

7.-9. (No change.)

(b)-(d) (No change.)

**SUBCHAPTER 6. REHABILITATION SUBCODE.****5:23-6.9 New building elements**

(a) When the rehabilitation of an existing building creates or includes any building element of a type listed in this section, then the new element shall comply with the requirements for such an element established by this section.

1.-7. (No change.)

8. Newly created stairways:

i. (No change.)

ii. Exit stairways in buildings subject to the building subcode shall comply with Sections 1022 and 1028. **Within the references of Section 1022, Section 1009 shall not be applicable;**

iii. (No change.)

9.-34. (No change.)