



# BULLETIN: 2010-4

**SUBJECT:** Enforcement of NJAC 5:70-3  
State Fire Prevention Code

**REFERENCE:** N. J. A. C. 5:70-3.1(d)

**ISSUE DATE:** June 7, 2010

Since the adoption of the New Jersey edition of the International Fire Code (NJ IFC) in August, 2008, there has been confusion regarding the applicability of items that appear in the code that require providing new equipment or construction or the upgrading of previously approved installations.

**N.J.A.C. 5:70-3.1(d)** specifically addresses this issue. It states “**This subchapter establishes fire prevention requirements governing the safe maintenance of all buildings and premises subject to this code. It is not the intent of the new Uniform Fire Code Subchapter 3 to require the installation or upgrading of any system, equipment or building component not already required by NJAC 5:70-4 or by the Uniform Construction Code in effect at the time of construction of the building or at the time of installation of any existing system, equipment or building component. This subchapter shall not be cited as the basis for any retrofit requirement. A lack of compliance with NJAC 5:70-4 shall be cited by the fire official under NJAC 5:70-4. A suspected lack of compliance with the provisions of the Uniform Construction Code in effect at the time of construction or installation shall be referred to the local construction official for appropriate action.**”

The confusion stems from the fact that the national model code which is the basis for the New Jersey Fire Prevention Code--the International Fire Code--promulgated by the International Code Council, is not only a fire prevention code. It is also a new building code in that it contains requirements for new construction and is referenced in the International Building Code as the source for construction requirements. To eliminate confusion about the applicability of these new construction requirements, the section

repeated above was written. Accordingly, Subchapter 3 is to be cited for fire prevention or maintenance only. Retrofit requirements are to be cited under Subchapter 4 only.

There are three exceptions to this rule:

- Process equipment not regulated by the NJ Uniform Construction Code
- The manufacturing, handling or storage of hazardous materials
- Vehicle impact protection

This is not a change in the scope of Subchapter 3. These requirements have been there in the past and remain there. If you are in doubt as to whether something falls into these categories, consult with your local construction official or contact the Bureau of Fire Code Enforcement at 609-633-6132 or through our website – [www.nj.gov/dca/dfs](http://www.nj.gov/dca/dfs).