

RESPONSE: The Department appreciates this expression of support for its proposal.

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 adoption follows:

5:23-12.3 Inspection and test schedule

(a) Routine, periodic and acceptance inspections and test of elevators shall be conducted as follows:

1.-3. (No change.)

4. Each building containing devices covered by this subchapter shall have an inspection cycle established by the enforcing agency. This cycle shall be consistent with the routine and periodic inspection and test intervals required in this section. Once this cycle is established, all such devices in the building shall be subject to inspections and tests, except as exempted by this section or by N.J.A.C. 5:23-12.9.

i. When a need to modify an existing inspection cycle exists, upon request of a construction official, where such needs are outlined, and approved by the Department, the existing inspection cycle can be changed. Such change shall not increase the intervals between inspections/tests required by this section, and any additional inspection that may be required as a result of the adjustment shall not be subject to a fee.

Recodify existing i.-iii. as ii.-iv. (No change in text.)

5. (No change.)

5:23-12.12 Special safety equipment

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

(f) A Yale 3502 key shall be used on all elevators that are required by the UCC to be equipped with a standardized fire service key.

(a)

**DIVISION OF LOCAL GOVERNMENT SERVICES
Local Finance Board; Local Authorities
Levy Cap Exclusion for Extraordinary Expenses Due to Emergencies**

Adopted New Rules: N.J.A.C. 5:30-3.9 and 5:31-2.10

Proposed: March 5, 2012 at 44 N.J.R. 543(a).

Adopted: June 9, 2012 by Richard E. Constable III, Acting

Commissioner, Department of Community Affairs.

Filed: June 14, 2012 as R.2012 d.135, **without change**.

Authority: N.J.S.A. 40A:4-45.45.b.

Effective Date: July 16, 2012.

Expiration Dates: March 23, 2016, N.J.A.C. 5:30;

July 18, 2018, N.J.A.C. 5:31.

Summary of Public Comment and Agency Response:

Public comment was submitted by William G. Dressel, Jr. on behalf of the New Jersey League of Municipalities, which is summarized below.

COMMENT: N.J.A.C. 5:30-3.9 and 5:31-2.10. The League is supportive of the rules, but suggests that extraordinary expenses incurred after a declaration of emergency by the President of the United States, in addition to emergencies declared by the Governor, be excluded from the property tax levy cap.

RESPONSE: The Department of Community Affairs is satisfied with the existing language limiting declared emergencies to those declared by the Governor. Amending the rule as the commenter proposes would broaden the scope of the emergency exception beyond that contemplated by the statute. National emergencies could be declared for a wide variety of reasons, such as national defense and disasters in other parts of the country. If a situation that directly impacted a municipality necessitated a

declaration of emergency, the Department finds it highly unlikely that the President would declare an emergency and not the Governor.

Federal Standards Statement

No Federal standards analysis is required because the new rules 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:

CHAPTER 30
LOCAL FINANCE BOARD

SUBCHAPTER 8. FINANCIAL ADMINISTRATION

5:30-3.9 Property tax levy cap exclusion for extraordinary expenses due to emergencies

N.J.S.A. 40A:4-45.45.b authorizes an exclusion to the municipal and county property tax levy cap for "extraordinary costs" related to a declared emergency. For the purpose of this law, "extraordinary costs" are defined as expenditures incurred for the immediate preparation, response, recovery, and restoration of public services due to extreme weather conditions or other catastrophic events that are the subject of a gubernatorial emergency declaration, and only for that portion of costs exceeding the cost of providing services under non-emergency conditions. Such funds can be treated as one-time (non-permanent) property tax levy cap exclusions upon submission and review of certifications describing the expenditures to the Director of the Division of Local Government Services, and may be subject to adjustment to account for the receipt of any State or Federal reimbursements.

CHAPTER 31
LOCAL AUTHORITIES

SUBCHAPTER 2. BUDGETS

5:31-2.10 Fire district property levy cap exclusion for extraordinary expenses due to emergencies

N.J.S.A. 40A:4-45.45.b authorizes an exclusion to the municipal and county property tax levy cap for "extraordinary costs" related to a declared emergency. For the purpose of this law, "extraordinary costs" are defined as expenditures incurred for the immediate preparation, response, recovery, and restoration of public services due to extreme weather conditions or other catastrophic events that are the subject of a gubernatorial emergency declaration, and only for that portion of costs exceeding the cost of providing services under non-emergency conditions. Such funds can be treated as one-time (non-permanent) property tax levy cap exclusions upon submission and review of certifications describing the expenditures to the Director of the Division of Local Government Services, and may be subject to adjustment to account for the receipt of any State or Federal reimbursements.

(b)

**DIVISION OF FIRE SAFETY
Notice of Administrative Corrections
Uniform Fire Code
Permits Required
N.J.A.C. 5:70-2.7**

Take notice that the Department of Community Affairs discovered errors in N.J.A.C. 5:70-2.7. Effective May 1, 2006 (see 37 N.J.R. 3108(a) and 38 N.J.R. 1824(a)), paragraph (b)4 of N.J.A.C. 5:23-2.14, Construction permits – when required, was amended, in pertinent part, to provide that construction permits are not required for tents, tensioned membrane structures, and canopies meeting the criteria in N.J.A.C. 5:23-2.14(b)4ii(1) through (5), but that tents, tensioned membrane structures, and canopies meeting those criteria shall be subject to the permitting requirements of the Uniform Fire Code at N.J.A.C. 5:30-2.7. The

criterion in N.J.A.C. 5:23-2.14(b)4ii(1) specifies that the tent, tensioned membrane structure, or canopy is less than 140 feet in any dimension and less than 16,800 square feet in area whether it is one unit or is comprised of multiple units.

N.J.A.C. 5:70-2.7, Permits required, was also amended, in pertinent part, by the addition of subparagraph (a)3xv, which provides that the erection, operation, or maintenance of any tent, tensioned membrane structure, or canopy, excluding those used for recreational camping purposes, that meets the criteria in N.J.A.C. 5:70-2.7(a)3xv(1) or (2) shall require a Type I permit. Subparagraph (a)3xv further provides that tents, tensioned membrane structures, or canopies meeting any of five specified criteria shall be subject to the Uniform Construction Code permitting requirements at N.J.A.C. 5:23-2.14. These criteria are those in N.J.A.C. 5:23-2.14(b)4ii(1) through (5), which, if satisfied, provide a construction permit requirement exception, stated in reverse (for example, stating "greater than" rather than "less than") so as to provide circumstances in which a construction permit is required. N.J.A.C. 5:70-2.7(a)3xv states the reverse of the criterion in N.J.A.C. 5:23-2.14(b)4ii(1) as, "[t]ents, tensioned membrane structures, or canopies greater than 16,800 square feet in area and greater than 140 feet in any dimension, whether one unit or composed of multiple units." Under N.J.A.C. 5:23-2.14(b)4ii(1), if both of the specified criteria are satisfied, that one of the five criteria in N.J.A.C. 5:23-2.14(b)4ii(1) through (5) for a construction permit exception is met; if either of the N.J.A.C. 5:23-2.14(b)4ii(1) criteria is not satisfied, then the criteria under N.J.A.C. 5:23-2.14(b)4ii are not met, and a construction permit is required. In order to properly reflect this, the "and" in the phrase "greater than 16,800 square feet in area and greater than 140 feet in any dimension" in the reverse rendition of the N.J.A.C. 5:23-2.14(b)4ii(1) criterion under N.J.A.C. 5:70-2.7(a)3xv must be replaced with "or," resulting in the phrase "greater than 16,800 square feet in area or greater than 140 feet in any dimension."

As part of the above-referenced rulemaking, the Department also relocated the construction permit exception for tents and tensioned membrane structures under quoted paragraph (3) in N.J.A.C. 5:23-3.14(b)20ii, "if the tent or [tensioned membrane] structure is no more than 900 square feet in area and no more than 30 square feet in any dimension (excluding canopies), whether it is one unit or composed of multiple units," stated in reverse, with the N.J.A.C. 5:23-2.14(b)4ii(1) construction permit exception size criterion added, as a circumstance under which a Type I permit is required, under N.J.A.C. 5:70-2.7(a)3xv(1): "The tent, tensioned membrane structure, or canopy is greater than 900 square feet and more than 30 feet in any dimension whether it is one unit or composed of multiple units, but 16,800 square feet or less in area and 140 feet or less in any dimension, whether it is one unit or composed of multiple units." As this is also a situation in which a permit exception criterion, both aspects of which must be satisfied in order to qualify for the exception, is stated in reverse as circumstances in which a permit is required, the "and" in the phrase "no more than 900 square feet in area and no more than 30 square feet in any dimension" must be replaced with "or," resulting in the phrase "no more than 900 square feet in area or no more than 30 square feet in any dimension."

This notice of administrative corrections is published pursuant to N.J.A.C. 1:30-2.7.

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

5:70-2.7 Permits required

(a) Permits shall be required and obtained from the local enforcement agency for the activities specified in this section, except where they are an integral part of a process or activity by reason of which the use is required to be registered and regulated as a life hazard use. Permits shall at all times be kept in the premises designated therein and shall at all times be subject to inspection by the fire official.

1.-2. (No change.)

3. Type I permit:

i.-xiv. (No change.)

xv. The erection, operation, or maintenance of any tent, tensioned membrane structure, or canopy, excluding those used for recreational camping purposes, that meets the criteria in (a)3xv(1) or (2) below shall require a Type I permit. Tents, tensioned membrane structures, or

canopies greater than 16,800 square feet in area [and] or greater than 140 feet in any dimension, whether one unit or composed of multiple units; remaining in place for more than 180 days; used or occupied between December 1 and March 31; having a permanent anchoring system or foundation; or containing platforms or bleachers greater than 11 feet in height shall be subject to the permitting requirements of the Uniform Construction Code (N.J.A.C. 5:23-2.14).

(1) The tent, tensioned membrane structure, or canopy is greater than 900 square feet [and] or more than 30 feet in any dimension whether it is one unit or composed of multiple units, but 16,800 square feet or less in area and 140 feet or less in any dimension, whether it is one unit or composed of multiple units.

(2) (No change.)

xvi. (No change.)

4.-7. (No change.)

(b)-(j) (No change.)

ENVIRONMENTAL PROTECTION

(a)

LAND USE MANAGEMENT

Coastal Zone Management

Energy Facility Use Rule

Readoption of Specially Adopted Amendment:

N.J.A.C. 7:7E-7.4

Proposed: January 3, 2012 at 44 N.J.R. 12(a).

Adopted: June 15, 2012 by Bob Martin, Commissioner, Department of Environmental Protection.

Filed: June 19, 2012 as R.2012 d.138, **without change**.

Authority: N.J.S.A. 12:3-1 et seq., 12:5-3, 13:1D-1 et seq., 13:9A-1 et seq., and 13:19-1 et seq.

DEP Docket Number: 13-11-11.

Effective Date: June 19, 2012.

Expiration Date: July 7, 2013.

The New Jersey Department of Environmental Protection (Department) is readopting without change the specially adopted amendment to the energy facility use rule, N.J.A.C. 7:7E-7.4, that implements P.L. 2011, c. 20, which amended the Coastal Area Facility Review Act, N.J.S.A. 13:19-10.1. The energy facility use rule, N.J.A.C. 7:7E-7.4, contains standards specific to various energy uses. Subsection (b) of the rule contains standards relevant to the siting of any new energy facilities, and specifically includes standards for the siting of wind energy facilities at N.J.A.C. 7:7E-7.4(b)3. At this time, the Department is readopting N.J.A.C. 7:7E-7.4(b)3iii without change. The rule, like the statute, provides that a wind dependent energy facility can be located on a pier provided the facility is an accessory use to the other uses of, or purposes for, the pier. In addition, the permit application for the wind energy facility on a pier must meet all applicable criteria in Coastal Zone Management rules.

The proposal of the readoption without amendments was published in the New Jersey Register at 44 N.J.R. 12(a) on January 3, 2012. The comment period closed on March 3, 2012.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require that State agencies which adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The Federal Coastal Zone Management Act (16 U.S.C. § 1450) was signed into law on October 27, 1972. The Act does not set specific regulatory standards for development in the coastal zone; rather, it provides broad guidelines for states developing coastal management programs. The Federal Coastal Zone Management Program guidelines are found at 15 CFR 923. They