

RULE ADOPTIONS

COMMUNITY AFFAIRS

(a)

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Adopted Amendments: N.J.A.C. 5:23-3.4, 3.14, 3.21, 6.5, 6.6, and 6.7

Proposed: July 6, 2021, at 53 N.J.R. 1133(a).

Adopted: December 16, 2021, by Lt. Governor Sheila Y. Oliver,
Commissioner, Department of Community Affairs.

Filed: January 11, 2022, as R.2022 d.022, **without change**.

Authority: N.J.S.A. 52:27D-119.

Effective Date: February 7, 2022.

Expiration Date: April 20, 2022.

Summary of Public Comments and Agency Responses:

Comments were received from Mitchell Malec, a retired former employee of the Department of Community Affairs (Department).

1. COMMENT: The commenter referenced comments he submitted to PRN 2021-011, specifically regarding the International Swimming Pool and Spa Code (ISPSC). These comments requested that the Department revise its delineation of responsibilities for the ISPSC at N.J.A.C. 5:23-3.4.

RESPONSE: The rulemaking referenced by the commenter was adopted in part in the September 20, 2021, New Jersey Register at 53 N.J.R. 1133(a). N.J.A.C. 5:23-3.4 was published in the same New Jersey Register for proposed substantial changes upon adoption, which required further public comment. As stated in response to the comments to that rulemaking, the Department agrees that further revision of the responsibilities listed for the ISPSC, needs to be undertaken. Due to the amount of time needed to fully undertake the revision, the Department intends to undertake separate rulemaking to address these sections.

2. COMMENT: The commenter expressed that it was his understanding that the State does not accept powered swimming pool safety covers as compliant barriers. He questioned why safety covers pursuant to Section 305.1 are assigned to the electrical subcode official for inspection and recommended that this section be the responsibility of the building subcode official for inspection. The commenter added that, "if the Department is set on having Electrical noted in this section for inspection of the electrical or non-electrical or safety or non-safety cover regarding the inspection (and plan review?) of powered swimming pool, spa, and hot tub covers, a change in the inspection text in N.J.A.C. 5:23-3.4(a)1, such as 'Electrical (Electrically powered covers including covers of swimming pools)' is recommended. Maybe clarification in the electrical subcode responsibility section would also be beneficial. (Building (non-powered covers)) I'll let the Department attempt to make the appropriate revisions. Also, the Department may want to be consistent in the acronym used - ISPSC versus ISPC."

RESPONSE: The assignment of Section 305.1, Exception 1 to the electrical subcode official for inspection is longstanding and has not caused confusion amongst the regulated population. This rulemaking merely deletes the reference to Exception 1 because the language included therein was moved into the main text of Section 305.1. This does not constitute a change in delineation of responsibilities; it reflects the codification of the ISPSC. The Department respectfully disagrees that further revision to this section is necessary. As noted above, the Department intends to undertake future revisions to properly address the ISPSC and will correct any inconsistent acronyms at that time.

3. COMMENT: The commenter supported the changes made throughout the building subcode, N.J.A.C. 5:23-3.14, to replace the term "incapable of self-preservation" with "slow evacuation" or "impractical evacuation," as appropriate.

RESPONSE: The Department thanks the commenter for his support.

4. COMMENT: Regarding the changes proposed at N.J.A.C. 5:23-6, the commenter referenced comments he submitted to PRN 2020-042 at 52 N.J.R. 835(a). These changes require that the electrical grounding system be updated when electrical service equipment is repaired. Noting that the change to PRN 2020-042 applied only to reconstruction, the commenter stated that, at that time, the Department equated a reconstruction to a "gut job" or gutting of a structure. The commenter felt that reconstruction of a building based on the rehabilitation subcode definition does not mean it is a gut rehabilitation.

RESPONSE: As noted in the response to the comments received to PRN 2020-042, and in response to comments provided to PRN 2021-051 at 53 N.J.R. 997(a), reconstruction is defined as "any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied." Reconstruction has historically been referred to as a gut job colloquially and in multiple guidance documents issued by the Department. These terms are synonymous.

5. COMMENT: The commenter asked that the Department clarify what an electrical service equipment repair and what an electrical service replacement are and asked what the Department considers electrical service equipment to be. He asked what the minimum repair or replacement would be to require updating the grounding electrode system. He included the following hypothetical questions: "Would the replacement of a circuit breaker for an existing branch circuit in the service panel require the grounding system to be updated? Would the installation of a new circuit breaker in the service panel for a new or future branch circuit require the grounding system to be updated? Would the replacement of a service disconnecting means, where six service disconnecting means exist, require updating of the one service disconnect or all? Would replacement of the service conductors between the meter and the point of attachment to the utility line require the updating? What are the applicability thresholds?"

RESPONSE: As noted in the notice of proposal Summary statement, and clarified in the requirements of the rehabilitation subcode, upgrades to the electrical service equipment are not required for repairs to existing systems. Electrical service equipment is defined pursuant to the National Electrical Code as "the necessary equipment, usually consisting of a circuit breaker(s) or switch(es) and fuse(s) and their accessories, connected to the load end of service conductors to a building or other structure, or an otherwise designated area, and intended to constitute the main control and cutoff of the supply." To address the situations noted above, any of the replacements noted above would require the grounding electrode to be updated. The applicability threshold comes from the type of rehabilitation work; any replacements to the electrical service equipment shall require that the grounding electrode system be upgraded in renovation, alteration, and reconstruction rehabilitation projects.

6. COMMENT: The commenter requested that the Department clarify the applicability of the new rule text. He noted the multiple electrodes that may be used within the text of the NEC and outlined a hypothetical scenario where many of the electrodes noted above are present but, due to lack of maintenance, the grounding electrode no longer exists and asked the Department what needs to be done to satisfy the requirements of the rehabilitation subcode. He further asked how the \$150.00 estimate provided in the Economic Impact statement would be impacted in this hypothetical scenario.

RESPONSE: In the event that a rehabilitation project that requires an upgrade to the grounding electrode system is underway and multiple electrodes are discovered, then it should be apparent that those once comprised the grounding electrode system. It is the responsibility of the permit applicant to verify that all electrodes are bonded together; if the electrodes are not bonded together before the project is undertaken, this rulemaking would require that electrodes be bonded together as part of the rehabilitation project. Should a contractor need to bond any or all electrodes together, it is not anticipated this would significantly increase the cost of the project.

7. COMMENT: The commenter noted that the Department’s justification for requiring grounding electrode system updates is that outdated systems can be a fire hazard or cause damage to equipment. The commenter asked if buildings with these fire hazards have been made safe. He also asked what improvements the Department has required to address deficient grounding electrode systems. Finally, he inquired whether other code enforcing agencies have been made aware that older buildings could have these fire hazards and asked what action those agencies have taken to make buildings safe, regardless of whether construction work is performed. The commenter felt that these requirements did not belong in the rehabilitation subcode, or in the Uniform Construction Code (UCC), except perhaps at N.J.A.C. 5:23-2.32.

RESPONSE: The proposed rulemaking seeks to address the potential hazards noted in the notice of proposal Summary statement. The Uniform Construction Code is locally enforced; this means that the Department is not made aware of the exact work performed in the course of each rehabilitation project. In addition, the UCC is not a retrofit code, and the rehabilitation subcode applies to projects undertaken voluntarily. The Department did not require any replacements pursuant to this rulemaking. The Department is confident that for every reconstruction project that required an upgrade of the grounding electrode system, those buildings are safer upon completion of the project than they were prior to it. Expanding this requirement to other forms of rehabilitation will further remediate any potential fire hazards or damage to equipment.

The Department respectfully disagrees that these provisions belong elsewhere. Because outdated grounding electrode systems can be hazardous, it is appropriate that the rehabilitation subcode be amended to address and remediate this issue at the time of a project. The section cited by the commenter applies to Unsafe Structures. The section requires that buildings that constitute a fire hazard dangerous to human life or the public welfare be taken down or made safe. The hazards associated with outdated grounded electrode systems have not proven to be dangerous to human life; thus, it is appropriate that the system be upgraded during a voluntary rehabilitation project to remediate the potential hazard. In addition, if a local enforcing agency is aware of a hazard that is dangerous to human life, the construction officials has the authority to determine if a building owner should be served a written notice of unsafe structure.

8. COMMENT: The commenter summarized his understanding of the rulemaking, as follows: “When a building or structure is undergoing a renovation, alteration, or reconstruction that includes the total replacement or relocation of a building or structure’s electrical service equipment (or whatever the Department considers repair and replacement of electrical service equipment is) shall require that the grounding electrode system meet the following, as applicable: If the existing electrical grounding electrode system of the building or structure consists of none of the permitted grounding electrodes of Article 250.52 of the electrical subcode, approved grounding electrodes shall be installed in accordance with the electrical subcode. If the existing electrical grounding electrode system of the building or structure consists of a single rod, pipe, or plate electrode, an additional grounding electrode shall be installed in

1. Building Subcode:

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
...			
	3109		
	ISPSC, Section 305	Building	Building (Except safety covers pursuant to Section 305.1, which shall be Electrical)
...			

2.-4. (No change.)

5. Mechanical Subcode:

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
...			
	301.19	Electrical (switch)/Plumbing (valve)	Electrical (switch)/Plumbing (valve)
...			

accordance with the electrical subcode to supplement the made electrode. A metal water pipe is not permitted to supplement a ground rod. If the existing grounding electrode system of the building or structure consists of a metal in-ground support structure, concrete-encased electrode, or ground ring, a supplemental grounding electrode shall not be required. If existing items permitted to be used as grounding electrodes are readily accessible and available or made available during the construction work, these items shall be made part of the electrical grounding system provided electrical service equipment work, as described above, is being concurrently undertaken. It is recommended that the Department revise the text relating to updating of grounding electrode systems to reflect the above.”

RESPONSE: Repairs to electrical service equipment would not require upgrading the grounding electrode system. The intent is to require that during renovation, alteration, and reconstruction projects, if any replacements are made to electrical service equipment, it would require that the grounding electrode system be brought up to date in accordance with Article 250, Part III of the electrical subcode. The Department does not anticipate that this will be unclear to code users.

9. COMMENT: The commenter recommended that the Department consider a New Jersey Edition of the 2018 International Mechanical Code (IMC) and other adopted model codes. He noted that, in lieu of this, the Department should note on its website that the links to the model codes do not include the New Jersey amendments contained in Subchapter 3 of the UCC. He also noted that, in the Department’s Summary statement, referring to the amended sections as Section 301.19 of the IMC and M1307.7 of the IRC rather than citing the mechanical subcode and one- and two-family dwelling subcode is unclear since the IMC and IRC do not contain these sections.

RESPONSE: The Department’s website does specify which model codes have New Jersey editions. It also states at the top of the page that the model codes are applicable as adopted within N.J.A.C. 5:23-3. This format has not caused confusion in the past. The Department does not anticipate that code users familiar with the format of the adopted subcodes found the summary statement for the rulemaking to be unclear.

Federal Standards Statement

No Federal standards analysis is required for the adopted amendments because the adopted amendments 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:

SUBCHAPTER 3. SUBCODES

5:23-3.4 Responsibilities

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

6. One- and Two-Family Dwelling Subcode:

Chapter	Section/Title	Responsibility	
		Plan Review	Inspection
...			
	ISPC, Section 305	Building	Building (Except safety covers pursuant to Section 305.1, which shall be Electrical)
...			
	M1307.7	Electrical (switch)/Plumbing (valve)	Electrical (switch)/Plumbing (valve)
...			

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

5:23-3.14 Building subcode
 (a) (No change.)
 (b) The following chapters of the building subcode are modified as follows:

1. (No change.)
2. Chapter 2, Definitions, shall be amended as follows:
 i.-v. (No change.)
 vi. The definition of “ambulatory care facility” shall be amended as follows: the phrase, “who are rendered incapable of self-preservation by the services provided or staff has accepted the responsibility for care recipients already incapable” shall be deleted and “where evacuation is impractical” shall be inserted.
 Recodify existing vi.-viii. as vii.-ix. (No change in text.)
 x. The definition of “clinic, outpatient” shall be amended as follows: the phrase “who are not rendered incapable of self-preservation by the services provided” shall be deleted, and “where evacuation is slow” shall be inserted.
 xi. (No change in text.)
 xii. The definition of “detoxification facilities” shall be amended as follows: the phrase “who are incapable of self-preservation or are harmful to themselves or others” shall be deleted, and “where evacuation is impractical” shall be inserted.
 Recodify existing x.-xvi. as xiii.-xix. (No change in text.)
 xx. The definition of “hospitals and psychiatric hospitals” shall be amended as follows: “who are incapable of self-preservation” shall be deleted, and “where evacuation is impractical” shall be inserted.
 xxi. The definition of “incapable of self-preservation” shall be deleted. This deletion shall include its cross-reference definition of the term “self-preservation, incapable of.”
 Recodify existing xviii.-xxi. as xxii.-xxv. (No change in text.)
 xxvi. The definition of nursing home shall be amended as follows: the phrase “incapable of self-preservation” shall be deleted, and “of impractical evacuation” shall be inserted.
 Recodify existing xxii.-xxxv. as xxvii.-xl. (No change in text.)
3. (No change.)
4. Chapter 4, Special Detailed Requirements Based on Use and Occupancy, shall be amended as follows:
 i.-ix. (No change.)
 x. In Section 422.2, Separation, the phrase “to be incapable of self-preservation at any time” shall be deleted, and “of impractical evacuation” shall be inserted.
 Recodify existing x.-xi. as xi.-xii. (No change in text.)
- 5.-7. (No change.)
8. Chapter 9, Fire Protection Systems, shall be amended as follows:
 i.-v. (No change.)
 vi. Section 903.2.2, Ambulatory Care Facilities, “Evacuation is impractical for” shall be inserted at the beginning of the sentence in item 1, and “are incapable of self-preservation” shall be deleted. “Evacuation is impractical for” shall be inserted at the beginning of the sentence in item 2, and “that are incapable of self-preservation” shall be deleted.
 Recodify existing vi.-xlv. as vii.-xlvi. (No change in text.)
 xlvii.-lxxxvi. (No change.)
9. (No change.)
10. Chapter 11, Accessibility, shall be amended as follows:

i.-ii. (No change.)
 iii. In Section 1102.1, Design, “amended as follows:” shall be added to the end of the sentence and the following list shall be inserted:
 1.-5. (No change.)
 Recodify existing 7.-22. as 6.-21. (No change in text.)
 iv.-lviii. (No change.)
 11.-27. (No change.)

5:23-3.21 One- and two-family dwelling subcode
 (a)-(b) (No change.)
 (c) The following chapters or sections of the IRC/2018 shall be modified as follows:
 1.-2. (No change.)
 3. Chapter 3, Building Planning, shall be amended as follows:
 i.-xxxviii. (No change.)
 xxxix. (No change in text.)
 xl.-xliv. (No change.)
 4.-24. (No change.)

SUBCHAPTER 6. REHABILITATION SUBCODE

5:23-6.5 Renovations
 (a)-(d) (No change.)
 (e) The following products and practices shall be required, when applicable:
 1.-6. (No change.)
 7. Any replacement to the electrical service equipment shall require that the grounding electrode system be updated to the requirements of Article 250 Part III of the electrical subcode. (Electrical)
 Recodify existing 7.-14. as 8.-15. (No change in text.)
 (f)-(h) (No change.)

5:23-6.6 Alterations
 (a)-(d) (No change.)
 (e) The following products and practices shall be required, when applicable:
 1.-9. (No change.)
 10. Any replacement to the electrical service equipment shall require that the grounding electrode system be updated to the requirements of Article 250 Part III of the electrical subcode. (Electrical)
 Recodify existing 10.-24. as 11.-25. (No change in text.)
 (f)-(l) (No change.)

5:23-6.7 Reconstruction
 (a)-(d) (No change.)
 (e) The following products and practices shall be required, when applicable:
 1.-9. (No change.)
 10. Any replacement to the electrical service equipment shall require that the grounding electrode system be updated to the requirements of Article 250 Part III of the electrical subcode. (Electrical)
 11.-22. (No change.)
 (f)-(l) (No change.)