

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Proposed Amendments: N.J.A.C. 5:23-2.20, 3.11, 3.14, and 3.16

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

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

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

Proposal Number: PRN 2023-052.

Submit written comments by August 4, 2023, to:

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The agency proposal follows:

Summary

The Department of Community Affairs (Department) seeks to amend N.J.A.C. 5:23-2, Administration and Enforcement: Process, and 3, Subcodes, of the Uniform Construction Code (UCC). The proposed amendments update the UCC to reflect current administrative and inspection requirements and revise terminology. Specifically, these proposed amendments

include an update to N.J.A.C. 5:23-2.20 to clarify special inspection requirements adopted as part of the building subcode. The change at N.J.A.C. 5:23-2.20 is a companion change, as N.J.A.C. 5:23-3.14(b)16, Chapter 17, Special Inspections and Tests, is proposed for update to reflect the addition of mass timber element types, and clarification on special inspection requirements. Amendments are also included to revise the language regarding “building official” references to reflect the existing changes at Section 1703 where the term is updated to “construction official.” Similarly, pursuant to the existing modification at Section 1704.3, “registered design professional” in responsible charge is modified to “person” in responsible charge and has been added to the other sections at Chapter 17 where the same statement is made. Additionally, in the building subcode, to reflect the current amendment at Section 1006.2.1, Egress based on occupancy load and common path of egress travel distance, changes are made to remove inaccurate terminology and complete the modification throughout the section. Also, within the UCC, an amendment is proposed at N.J.A.C. 5:23-3.11(g) to correct an error within a reference that directs the code user to an incorrect location. Lastly, two articles within the electrical subcode are to be revised. The first, Article 90.5, Explanatory Material, of the electrical subcode was reviewed as a result of the adoption of the 2020 National Electrical Code (NEC) and amended to state that notes within the subcode text are informational only and are not enforceable as requirements of the NEC. The second is Article 680.4, Inspections After Installation, which concerned swimming pool installations and was deleted because of previously addressed requirements within the UCC.

A section-by-section summary of the proposed amendments follows.

1. N.J.A.C. 5:23-2.20(b) – The proposed amendment would include “mass timber elements of Type IV-A, IV-B, and IV-C construction” on the applicable list requiring special

inspection. This change is proposed in order to clarify the updates to Chapter 17, Special Inspections and Tests, of the building subcode. There is a companion change that was made to update the special inspection requirements following amendment of the UCC.

2. N.J.A.C. 5:23-3.11(g) – The proposed amendments would be an administrative correction to resolve an error located within the reference for Barrier Free Recreation Standards. Specifically, the reference stated that the reserved subcode began at N.J.A.C. 5:23-7.15 when it is instead N.J.A.C. 5:23-7.16. The proposed amendment addresses this correction.

3. N.J.A.C. 5:23-3.14(b)9vi – The proposed amendment is a correction resolving an error in terminology. This amendment currently replaces the term "common path of egress travel distance" found at Table 1006.2.1, Spaces with one exit or exit access doorway, as referenced by Section 1006.2.1, Egress based on occupancy load and common path of egress travel distance. To be complete, further modification is required throughout this section and the term "common path of egress travel distance" is replaced with "exit access travel distance." The change clarifies that the distance is based on travel from the most remote point in a space to the exit.

4. N.J.A.C. 5:23-3.14(b)16i, iv, xi, xiii, xv, xvi, xviii, xxii, xxx, xxxi, xli, xlii, xliv, and xlv – The proposed amendments would address a series of corrections and updates regarding the language. These amendments reflect existing changes at Section 1703 in which “building official” is modified to “construction official,” and similarly at Section 1704.3, “registered design professional” in charge is modified to “person” in responsible charge. These revisions are addressed by deletion and addition of the appropriate terms and in the applicable locations. Due to the proposed amendments, a renumbering of the relevant and subsequent subcode numerals is required and amended to reflect those changes.

5. N.J.A.C. 5:23-3.14(b)16ii and recodified (b)16xii – The proposed amendments would include clarification on mass timber element type, modification of language, and the correction of errors. Specifically, the amendments will clarify that the subcode applies only to the mass timber elements of those buildings as stated at Section 1705.5.3, rather than to the entire building itself. In addition, this amendment notifies the user of the location of revisions within the section being referred. This amendment also corrects the absence of dashes within the mass timber element types that are listed.

6. Recodified N.J.A.C. 5:23-3.14(b)16xvii – The proposed amendment would notify UCC users of the deletion of an exception at Section 1704.3.

7. Recodified N.J.A.C. 5:23-3.14(b)16xix – The proposed amendment would correct an error within the UCC and advise of the location of a language revision at Section 1704.5. Specifically, “submittal” is changed to “submittals,” and the user is guided to the location of the revision, “in the first sentence” of the referenced section.

8. N.J.A.C. 5:23-3.16(a)2i – The proposed amendments would modify language to be consistent with the intent of the text at Article 90.5(C), Explanatory Material, and state that notes are for informational use only and are not enforceable as requirements of the NEC. As such, informational notes should be treated as background or guidance to the topic of the related article text and not as citable references for code violations. Informational notes often reference other standards. Over time, as new editions of the model codes have been published and adopted, the language within the informational notes has been included in the requirements of the applicable model code. An example would be the inclusion of the applicable portion of NFPA 20, which was an informational note, and is now included within Article 695 (fire pumps) of the NEC. The origin of the need to acknowledge informational notes dates back to 1992, where Formal

Technical Opinion 6 listed a series of informational notes (previously called fine print notes) considered adopted by reference and thus considered enforceable requirements of the UCC. However, due to new editions and the additional requirements of the model codes, it is, therefore, not necessary for the inclusion of the standards within the bulletins.

9. New N.J.A.C. 5:23-3.16(b)7iv – The proposed amendment would delete Article 680.4, Inspections after installation, from the electrical subcode. This section includes requirements for swimming pool inspections. As swimming pool inspections are already addressed within the administrative provisions of the UCC at N.J.A.C. 5:23-2.18C and 2.20, this article is proposed for deletion because it is unnecessary.

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

Social Impact

It is expected that the proposed rulemaking will have a positive social impact. This rulemaking would modify and clarify the UCC to ensure code users have the most accurate and up-to-date information possible. The modifications to the building subcode further ensure the efficiency of anyone performing inspections by providing that they are only inspecting the proper mass timber element types rather than the entire building. Additionally, the amendments concerning the electrical subcode ensure appropriate guidance and clarification on the applicability of informational notes.

Economic Impact

The proposed amendments are revisions in language of the UCC, applicability of certain special inspections, and guidance regarding informational notes. These amendments are not anticipated to have any economic impact.

Federal Standards Statement

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

Jobs Impact

The proposed amendments are not expected to have an impact on the generation or loss of jobs. These amendments are corrections and specific changes relating to the applicability of guidance within the UCC and are not anticipated to have a positive nor negative impact on employment.

Agriculture Industry Impact

The Department does not anticipate that the proposed amendments will impact the agriculture industry. These amendments are revisions of language and clarification on inspection requirements and are not expected to cause issues in the agricultural sector.

Regulatory Flexibility Analysis

The proposed amendments, which incorporate references to the new mass timber special inspections, and clarify and update the UCC, do not impose new compliance requirements on small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Many special inspectors are considered small businesses, however, this rulemaking merely

clarifies the special inspection requirements, and as such, these amendments are not expected to pose an undue burden on small businesses; thus, no regulatory flexibility analysis is required.

Housing Affordability Impact Analysis

The proposed amendments are not expected to have an impact on the affordability of housing or on the average cost of housing in the State. The proposed amendments are intended to conform the State Uniform Construction Code to the most recent editions of the adopted model codes and make other changes of a technical or corrective nature. Therefore, this rulemaking will not have any cognizable impact on the affordability of housing.

Smart Growth Development Impact Analysis

The proposed amendments are not expected to have any impact upon housing production, within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments are intended to conform the State Uniform Construction Code to the most recent editions of the adopted model codes and make other changes of a technical or corrective nature. As such, this rulemaking neither establishes nor changes any substantive requirements related to housing production in the State.

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

SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

5:23-2.20 Tests and special inspections

(a) (No change.)

(b) All special inspections, as provided in the building subcode, shall apply to Class 1 buildings, **mass timber elements of Type IV-A, IV-B, and IV-C construction**, and a smoke control system installed in any building. A special inspector shall be independent of the contractor and shall be responsible to the building owner or building owner's agent. Special inspectors shall be certified in the appropriate specialty.

1. (No change.)

(c) – (f) (No change.)

SUBCHAPTER 3. SUBCODES

5:23-3.11 Enforcement activities reserved to the Department

(a) – (f) (No change)

(g) The Department of Community Affairs shall be the sole agency for the enforcement of the Barrier Free Recreation Standards (N.J.A.C. 5:23-[7.15]7.16 through 7.31). Any complaint of noncompliance with these rules shall be forwarded to the Department.

(h) – (k) (No change)

5:23-3.14 Building subcode

(a) (No change.)

(b) The following chapters of the building subcode are modified, as follows:

1. – 8. (No change.)

9. Chapter 10, Means of Egress, shall be amended as follows:

i. – vi. (No change.)

vii. In Section 1006.2.1, Egress based on occupancy load and common path of egress travel distance, in the title and the first sentence, **“common path of egress” shall be deleted and “exit access” shall be inserted. Additionally, in Table 1006.2.1, Spaces with one exit or exit access doorway, in the heading over the 3rd, 4th, and 5th row, in footnote e and in footnote f, “Common Path of Egress” shall be deleted, and “Exit Access” shall be inserted. Lastly, in the 5th column of the 10th row (R-3), the reference to footnote a and g shall be deleted; and in footnote g, “R-3 and” shall be deleted. [Additionally, in the heading over the 3rd, 4th, and 5th row, “Common Path of Egress” shall be deleted and “Exit Access” shall be inserted.]**

viii. – xxxii. (No change.)

10. – 15. (No change.)

16. Chapter 17, Structural Tests and Special Inspections, shall be amended, as follows:

i. In the User notes, under About this Chapter, **“or construction official, as indicated in Chapter 17” shall be inserted after “building official.”** Additionally, “chapter 1” shall be deleted, and “the administrative provisions of the Uniform Construction Code (N.J.A.C. 5:23)” shall be inserted in its place.

ii. In Section 1701.1, Scope, “shall apply to Class 1 buildings, [buildings] **mass timber elements** of Type [IVA, IVB, and IVC] **IV-A, IV-B, and IV-C** construction, and smoke control systems in all buildings and” shall be inserted after “chapter.”

iii. (No change.)

iv. In Section 1703.1.1, Independence, in the second sentence, “building official” shall be deleted and “construction official” shall be inserted. **Additionally, “registered design professional” shall be deleted and “person” shall be inserted.**

v. – x. (No change.)

xi. In Section 1704.1, General, in the first sentence, “building official” shall be deleted and “construction official” shall be inserted.

[xi] **xii.** In Section 1704.2, Special inspections and tests, in the first sentence, “of Class 1 buildings, [buildings] **mass timber elements** of [Type IVA, IVB, and IVC] **Type IV-A, IV-B, and IV-C** construction, or any building containing a smoke control system” shall be inserted after “construction.” Additionally, **in two places in the first sentence and** in exceptions #1 and #2, “building official” shall be deleted and “construction official” shall be inserted. Lastly, “Section 105” and “Section 110” shall be deleted and “the administrative provisions of the Uniform Construction Code (N.J.A.C. 5:23)” shall be inserted in both locations.

xiii. In Section 1704.2.1, Special inspector qualifications, in the first sentence, “building official” shall be deleted and “construction official” shall be inserted. Additionally, “registered design professional” shall be deleted and “person” shall be inserted.

[xii.] **xiv.** (No change in text.)

xv. In Section 1704.2.4, Report requirements, in the second and last sentences, “building official” shall be deleted and “construction official” shall be inserted. Additionally, in the second and the fifth sentences, “registered design professional” shall be deleted and “person” shall be inserted.

xvi. In Section 1704.2.5.1, Fabricator approval, in the third sentence, “building official” shall be deleted and “construction official” shall be inserted.

[xiii.] **xvii.** In Section 1704.3, Statement of special inspections, “registered design professional” shall be deleted and “person” shall be inserted. **Additionally, the exception shall be deleted.**

[xiv.] **xviii.** In Section 1704.4, [Contractor] **Contractors’** responsibility, in the first sentence, “main – wind- or” shall be deleted. In addition, in the same sentence, “or a wind-“ shall be deleted. **Additionally, in the first sentence, “building official” shall be deleted and “construction official” shall be inserted.**

[xv.] **xix.** In Section 1704.5, Submittals to building official, in the title **and in the first sentence**, “building official” shall be deleted and “construction official” shall be inserted. In addition, in item # 7, “B and C,” shall be deleted in reference to seismic design categories.

Recodify existing xvi. – xvii. As **xx. – xxi.** (No change in text.)

xxii. In Table 1705.3, Required special inspections and test of concrete construction, in Item #11, “C,” shall be deleted from the Design Category listing. Additionally, in Note b, “building official” shall be deleted and “construction official” shall be inserted.

Recodify existing xviii – xix. As **xxiii as xxiv.** (No change in text.)

xxv. In Table 1705.7, Required special inspections and test of driven deep foundation elements, at Item #7, “registered design professional” shall be deleted and “person” shall be inserted.

Xxvi. In Section 1705.9, Helical pile foundations, in the second sentence, “registered design professional” shall be deleted and “person” shall be inserted.

Recodify existing xx. – xxviii. As **xxvii. – xxxv.** (No change in text.)

[xxix.] **xxxvi.** In Section 1705.14.2, Nonstructural components, in the first sentence, “B and C,” shall be deleted in reference to seismic design categories. **Additionally, in the second sentence, “building official” shall be deleted and “construction official” shall be inserted.**

[xxx.] **xxxvii.** In Section 1705.14.3, Designated seismic systems, in the first sentence, “C,” shall be deleted in reference to seismic design categories. **Additionally, in the second sentence, “building official” shall be deleted and “construction official” shall be inserted.**

[xxxi.] as **xxxviii.** (No change in text.)

[xxxii.] **xxxix.** In Section 1707.1, [Alternative Test Procedure] **General, in two places in the first sentence, "building official" shall be deleted and "construction official" shall be inserted. Additionally,** “as provided for in Section 104.11” shall be deleted and “in accordance with N.J.A.C. 5:23-3.7.” shall be inserted in its place.

xl. In Section 1709.1, General, in the second sentence, "building official" shall be deleted and "construction official" shall be inserted.

17. – 27. (No change.)

5:23-3.16 Electrical subcode

(a) Rules concerning the electrical subcode adopted are as follows:

1. (No change.)
2. The National Electrical Code 2020 may be known and cited as "the electrical subcode."

i. Codes and standards referenced in the Informational Notes of the electrical subcode (NEC 2020) shall be [considered adopted by reference to the extent prescribed by each related section] **explanatory material and not adopted as part of the subcode.** [These] **The application of these** codes and standards [also are printed in DCA Bulletin # 19-3, which contains a list of adopted codes and standards that are applicable to the enforcement] **follow Section 90.5(C)** of the electrical subcode.

3. (No change.)

(b) The following chapters or articles of the electrical subcode are amended as follows:

1. – 6. (No change.)

7. Chapter 6 of the electrical subcode, entitled “Special Equipment,” is amended as follows:

i. – v. (No change.)

vi. Article 680.4, Inspections after installation, shall be deleted.

[vi.] **vii.** (No change in text.)