

COMMUNITY AFFAIRS

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Heating, Ventilating, Air Conditioning, and Refrigeration Contractors

Adopted Amendments: N.J.A.C. 5:23-2.15 and 2.15A

Proposed: August 5, 2019, at 51 N.J.R. 1243(a).

Adopted: September 1, 2020, by Lt. Governor Sheila Y. Oliver, Commissioner, Department of Community Affairs.

Filed: September 9, 2020, as R.2020 d.099, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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

Effective Date: October 5, 2020.

Expiration Date: March 25, 2022.

Summary of Public Comments and Agency Responses:

Comments were received from: Eric DeGesero, Executive Vice President, Fuel Merchants Association of New Jersey; Mitchell Malec, a retired former employee of the Department of Community Affairs (Department); Dan O’Gorman; and Thomas F. Walsh, Plumbing Subcode Official, Township of East Brunswick.

1. COMMENT: The Fuel Merchants Association of New Jersey expressed support for the proposed amendments.

RESPONSE: The Department thanks the commenters for the expression of support.

2. COMMENT: One commenter commended the Department for this notice of proposal, which would require local enforcing agencies to ensure that permit applicants are licensed pursuant to the Heating, Ventilation, Air Conditioning, and Refrigeration Contractors (HVACR) law, N.J.S.A. 45:16A-9.

RESPONSE: The Department thanks the commenter for the expression of support.

3. COMMENT: One commenter stated that the proposed amendments to N.J.A.C. 5:23-2.15(b) do not entirely reflect the specific language or intent of the HVACR law. The commenter stated that the law does grant an exception for a single-family homeowner to perform work on his or her own dwelling, but that the exception is only relevant to a single-family homeowner who “personally occupies his own dwelling and who solely performs HVACR work on his own dwelling,” in accordance with N.J.S.A. 45:16A-9, and the pertinent regulation at N.J.A.C. 13:32A-1.1(b)3. Further, the commenter cited an exception to the exemption that prohibits a single-family homeowner from performing any HVACR work involving chlorofluorocarbons or hydrochlorofluorocarbons without being licensed as an HVACR contractor.

RESPONSE: The Department understands the underlying statute and rules relevant to HVACR contractors are more specific than the general exception detailed in the Uniform Construction Code (UCC). This is also true for the other listed trades. The UCC states the general exception for single-family homeowners, so that code users know an exception exists; the code user must apply that exception within the scope of the laws and rules applicable to each specific trade.

4. COMMENT: One commenter pointed out an incorrect citation in the Summary of the notice of proposal. Additionally, the commenter pointed out that the HVACR law and applicable

regulation uses the term “ventilating,” and not “ventilation,” as proposed. The commenter recommends that the Department revise the rules as needed.

Additionally, the commenter expressed disappointment that the Department did not take the time to reformat this section similar to the format of other sections of the UCC (such as N.J.A.C. 5:23-2.15(b)4, 5, 6, 7, 8, and 9). The commenter stated the opinion that reformatting would not be a substantial change since the proposed amendments would reference those requirements for permits for proposed work within the scope of those licensed trades and require applications to contain certain information as discussed in the notice of proposal Summary. The commenter further provided a “quick draft outline” of recommended revisions to the section. The commenter also questioned why the Department “expended time and energy on the article ‘License Check’; in the Construction Code Communicator, Volume 1, Number 1, Spring 2019, detailing homeowner exemptions within the contractor licensure laws and not address in the regulations.”

RESPONSE: The commenter is correct that there was a typographical error in the notice of proposal Summary; that does not affect any citations in the rule adoption. Upon adoption, the Department has replaced the word “ventilation” with “ventilating.” The Department recognizes multiple ways of writing a requirement; the Department’s proposed language follows the existing format of the specific section of the UCC that has not caused any confusion. Thus, the Department declines to make a change at this time. In addition, as stated in the Response to Comment 3 above, the UCC states the general exception. The Construction Code Communicator article “License Check” provides further insight and is a guidance document for applying the UCC per the referenced licensure/registration requirements administered by other State entities.

Federal Standards Statement

No Federal standards analysis is required for the adopted amendments because the 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 (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

SUBCHAPTER 2. ADMINISTRATION AND ENFORCEMENT; PROCESS

5:23-2.15 Construction permits – application

(a) (No change.)

(b) In addition to the requirements of (a) above, the following information shall be required on any application for a construction permit when such information is available, but not later than the commencement of work.

1. (No change.)

2. The name and license number of the contractor(s) or subcontractor(s) for plumbing; electrical; or heating, ***[ventilation]* *ventilating***, air conditioning, and refrigeration work, where such work is proposed.

i. Plumbing, electrical, heating, ***[ventilation]* *ventilating***, air conditioning, and refrigeration work shall not be undertaken except by persons licensed to perform such work pursuant to law, except in the case of a single-family homeowner on his or her own dwelling.

ii. The seal and signature of the licensed plumbing; electrical; or heating,
[ventilation] ***ventilating***, air conditioning, and refrigeration contractor(s)
shall be affixed to the corresponding subcode application form.

3. – 11. (No change.)

(c)-(f) (No change from proposal.)

5:23-2.15A Construction permit for a single-family residence

(a) (No change.)

(b) Plans containing the following information shall be considered to meet the requirements of

(a) above:

1. – 3. (No change.)

4. The drawings shall bear the seal and signature of the registered architect or licensed engineer who prepared the plans affixed to each sheet of each copy of the plans submitted and on the first or title sheet of the specifications and any additional supportive information submitted.

i. (No change.)

ii. Plumbing plans; electrical plans; and heating, *[ventilation]* ***ventilating***, air conditioning, and refrigeration plans may be prepared by licensed plumbers, licensed electrical contractors, and licensed heating, *[ventilation]* ***ventilating***, air conditioning, and refrigeration contractors, respectively, in accordance with this subchapter.

(1) Energy subcode compliance documentation from (b)3vi above may be submitted by the licensed heating, *[ventilation]* ***ventilating***, air conditioning, and refrigeration contractor.

5. – 7. (No change.)