

(c)

DIVISION OF CODES AND STANDARDS

DIVISION OF FIRE SAFETY

Uniform Construction Code

Uniform Fire Code

Carbon Monoxide Detectors; Certificates

Adopted Amendments N.J.A.C. 5:23-3.20, 6.4, 6.5, 6.6, 6.7, 6.21A, 6.25A, 6.26A, 6.27 and 6.31;

5:70-1.5, 2.1, 2.3, 2.9 and 4.19

Proposed: December 16, 2002 at 34 N.J.R. 4277(a).

Adopted: March 3, 2003 by Susan Bass Levin, Commissioner, Department of Community Affairs.

Filed: March 6, 2003 as R.2003 d.137, with a technical change not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3)

Authority: N.J.S.A. 52:27D-124 and 133.3; P.L. 1999, c.15, section 5.

Effective Date: April 7, 2003

Expiration Dates: January 15, 2008, N.J.A.C.5:23;

December 22, 2004, N.J.A.C. 5:70.

Summary of Public Comments and Agency Responses:

Comments were received from the following persons: David E. Herbert, CPM, Fire Marshal, East Brunswick Fire District #1; Robert Corby, CBO, Washington Township (Mercer County) Construction Office; Michael S. Scardino, Fire Marshal, Township of Winslow; Bill Lample; Jared Grasso, Executive Director of the New Jersey Association of Realtors; and Robert J. Davidson, Fire Marshal, South Brunswick Township.

COMMENT: Proposed changes to the Uniform Fire Code are inconsistent with the Uniform Construction Code and with other sections of the Uniform Fire Code with regard to Use Group classification of one- and two-family homes.

RESPONSE: Reference to Use Group R-4 is being added to N.J.A.C. 5:70-4.19(d), thus eliminating the apparent inconsistency in the location where it appears.

COMMENT: N.J.A.C. 5:70-2.3 should be amended to include buildings in Use Group R-2 (multiple dwellings) as subject to inspection on change of occupancy. There are no requirements for maintenance inspections of such buildings.

RESPONSE: Multiple dwellings are already subject to inspection for carbon monoxide detector compliance by the Bureau of Housing Inspection under the Hotel and Multiple Dwelling Law, as amended by section 2 of P.L. 1999, c.15, Section 1 of P.L. 1999, c.15 limits carbon monoxide detector inspections upon change of occupancy to one- and two- family dwellings.

COMMENT: The proposal should include a fee increase, including graduated fees when inspections are required on short notice.

RESPONSE: The Department is aware of this issue and will review it as part of its ongoing review of the adequacy of fees to cover costs.

COMMENT: This proposal does not include provision for an affidavit in lieu of inspection, which is permitted in the case of smoke detectors. Such a provision is not desirable and should be deleted for smoke detectors.

RESPONSE: The existing provision allowing use of an affidavit in lieu of inspection is not being deleted and applies to the combined inspection for smoke and carbon monoxide detectors. In any event, removal of this provision was not proposed, so it cannot be done on adoption.

COMMENT: There have been cases where a seller had a smoke detector inspection performed, got the certificate and then took the detectors with him when he moved.

RESPONSE: N.J.S.A. 52:27D-198.3 requires not only that the seller or lessor of a one or two-family house have the property inspected and obtain the appropriate certificate, but also that he not sell or lease the property if it does not comply with the requirements concerning the existence and placement of one or more alarms. Thus, a seller or lessor who got a certificate and then took the detectors with him would be subject to the same penalty as if he did not obtain the certificate.

COMMENT: The rules should make the listing real estate agent responsible for compliance with the detector requirements.

RESPONSE: By statute, it is the owner who is responsible for compliance. The Department does not have authority to impose such responsibility upon real estate agents.

COMMENT: It is not possible to test AC-powered systems in foreclosed properties in which electrical power has been turned off. How can a local enforcing agency issue a certificate for such

properties?

RESPONSE: The purchaser of any such property will require a permit under the Uniform Construction Code in order to have the utilities reconnected. No certificate of smoke and carbon monoxide detector compliance can be issued until a certificate of occupancy has been issued following the inspection of the reconnected utilities. Any work done under the Rehabilitation Subcode of the Uniform Construction Code will trigger the requirement for detectors.

COMMENT: The installation of smoke and carbon monoxide detectors will save many lives.

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

COMMENT: The proposal should be rewritten to eliminate potential confusion and overlapping authority among the local fire code enforcing agency, the local construction code enforcing agency and the Department's Bureau of Housing Inspection and Bureau of Rooming and Boarding House Standards. The language proposed at N.J.A.C. 5:23-6.4(g), which requires installation in accordance with the mechanical subcode of the Uniform Construction Code, should apply in all cases.

RESPONSE: The construction code enforcing agency has jurisdiction when construction or alteration work is done and one or more carbon monoxide detectors are required as a condition of issuance of a certificate of occupancy or condition of approval. The Bureau of Housing Inspection and the Bureau of Rooming and Boarding House Standards have jurisdiction over buildings that they inspect and in which the requirement that carbon monoxide detectors be provided is one of many rules that they enforce. Local fire code enforcing agencies currently inspect existing one- and two-family dwellings upon change of occupancy for smoke detectors, and will now inspect for carbon monoxide detectors at the same time. The jurisdictional lines are clear and the cross-references to the Uniform Construction Code in the other rules should not, in the Department's judgment, be a source of confusion.

COMMENT: All carbon monoxide detectors should be required to have battery backup, since many cases of carbon monoxide poisoning occur when electric power to a unit is shut off and the occupants use unvented alternative heating sources that are hazardous.

RESPONSE: P.L. 1999, c.15, the Act that these rules are designed to implement, provides in section 6 that the rules "shall substantially comport with National Fire Protection Association (NFPA) 720. Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment." Since NFPA 720 allows CO detectors to be battery-powered, AC hard-wired or plug-in, the rules can neither preclude nor require use of any one of these power sources.

COMMENT: The New Jersey Association of Realtors (NJAR) believes that, by requiring installation of carbon monoxide detectors, the Department is working in the best interest of the residents of New Jersey. However, the NJAR is concerned about the absence of reference to R-4 structures in the proposed N.J.A.C. 5:70-4.19(d). The NJAR also recommends that there be a three-month period allowed prior to the operative date for this rule, in order to allow inclusion of language in standard form contracts that would alert buyers and sellers to this requirement.

RESPONSE: The Department appreciates the NJAR's expression of support. As has been indicated, reference to the Group R-4, which was inadvertently omitted from the proposed N.J.A.C. 5:70-4.19(d), is being included on adoption. The intention to include reference to Use Group R-4 in that subsection is clear from the cross-reference in N.J.A.C. 5:70-2.3(a). As to extensions of time for compliance, the Department believes that this issue has received considerably more public attention than is the case with most rule proposals, that addenda to existing contract forms can easily be prepared and be made available, and that it is therefore not necessary to delay the operative date.

COMMENT: Many buildings are constructed with their heaters in small additions or exterior closets that are separated from the building interior by structural sheathing and sheetrock as an enclosed assembly. They have fresh air intakes large enough to facilitate proper combustion. The ductwork system is usually constructed so as to prevent drawing by-products of combustion through the duct system. This type of configuration should be exempt.

RESPONSE: Attached garages are typically separated by the building interior in the same manner as the additions or exterior closets that the commenter describes. However, carbon monoxide detectors are required when there is an attached garage because of the possibility of carbon monoxide seeping into the habitable area.

The same rationale would apply in this case as well.

Federal Standards Statement

No Federal standards analysis is required because these rules 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 a State statute that refers to Federal law, standards or requirements.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***):

5:23-3.20 Mechanical subcode

(a)-(b) (No change.)

(c) Single station carbon monoxide alarms shall be installed and maintained in full operating condition in the immediate vicinity of each sleeping area in any guestroom or dwelling unit located in a building of Use Group I-1, R-1, R-2, R-3 or R-4, if the building contains a fuel-burning appliance or has an attached garage. An "open parking structure," as defined in the building subcode, shall not be deemed to be an attached garage.

1-2. (No change.)

5:23-6.4 Repairs

(a) - (f) (No change.)

(g) In buildings of Use Group I-1, R-1, R-2, R-3 or R-4 containing a fuel-burning appliance or having an attached garage, carbon monoxide alarms shall be installed in accordance with the mechanical subcode. (Fire)

5:23-6.5 Renovations

(a) - (d) (No change.)

(e) The following products and practices shall be required, when applicable:

1. -8. (No change.)

(f) (No change.)

(g) In buildings of Use Group I-1, R-1, R-2, R-3 or R-4 containing a fuel-burning appliance or having an attached garage, carbon monoxide alarms shall be installed in accordance with the mechanical subcode. (Fire)

(h) (No change in text.)

5:23-6.6 Alterations

(a)-(d) (No change.)

(e) The following products and practices shall be required, when applicable:

1. -14. (No change.)

(f) (No change.)

(g) In buildings of Use Group I-1, R-1, R-2, R-3 or R-4 containing a fuel-burning appliance or having an attached garage, carbon monoxide alarms shall be installed in accordance with the mechanical subcode. (Fire)

Recodify existing (f) -(j) as (g)-(k) (No change in text.)

5:23-6.7 Reconstruction

(a)-(d) (No change.)

(e) The following products and practices shall be required, when applicable:

1.-10. (No change.)

(f) In buildings of Use Group I-1, R-1, R-2, R-3 or R-4 containing a fuel-burning appliance or having an attached garage, carbon monoxide alarms shall be installed in accordance with the mechanical subcode (Fire)

Recodify existing (f) -(j) as (g)-(k) (No change in text.)

5:23-6.21A Supplemental requirements—Use Group I-1

(a)-(c) (No change.)

Recodify existing (e)-(g) as (d)-(f) (No change in text.)

5:23-6.25A Supplemental requirements—Use Group R-1

(a)-(d) (No change.)

Recodify existing (f) -(h) as (e)-(g) (No change in text.)

5:23-6.26A Supplemental requirements—Use Group R-2

(a)-(d) (No change.)

Recodify existing (f) -(h) as (e)-(g) (No change in text.)

5:23-6.27 Basic requirements—Use Group R-3/R-4

(a) (No change.)

Recodify existing (c) -(i) as (b) -(h) (No change in text.)

5:23-6.31 Change of use

(a)-(j) (No change.)

(k) Carbon monoxide alarms: When the use of a building is changed to Use Group I-1, R-1, R-2, R-3 or R-4 and the building contains a fuel-burning appliance or has an attached garage, carbon monoxide alarms shall be installed in accordance with the mechanical subcode. (Fire)

(l)-(q) (No change.)

5:70-1.5 Definitions

The following terms shall have the meanings indicated except where the context clearly requires otherwise. All definitions found in the Uniform Fire Safety Act, P.L. 1983, c.383, N.J.S.A. 52:27D-192 et seq., shall be applicable to this chapter. Where a term is not defined in this section or in the Uniform Fire Safety Act, then the definition of that term found in the Uniform Construction Code at N.J.A.C. 5:23-1.4 shall govern.

"Use" or "Use Group" means the use to which a building, portion of a building, or premises is put as follows. It shall also mean and include any place, whether constructed, manufactured or naturally occurring, whether fixed or mobile, that is used for any human purpose or occupancy that would subject it to the provisions of this Code if it were a building or premises.

1.-16. (No change.)

17. "Use Group R-3": This Use Group shall include all buildings arranged for the use of detached one- and two-family dwellings units, including, but not limited to, buildings with not more than five lodgers or boarders per family, and excluding buildings designed in accordance with the one- and two-family subcode of the State Uniform Construction Code. This Use Group shall also mean and include:

i. Bed and breakfast homestays; and

ii. Attached one- and two-family dwellings constructed in accordance with the Uniform Construction Code requirements for multiple single family dwellings.

18. "Use Group R-4": This Use Group shall include all buildings arranged for use as detached one- and two-family dwelling units, including, without limitation, buildings occupied by not more than five lodgers or boarders per family and buildings used as bed and breakfast homestays, that are designed in accordance with the one- and two-family dwelling subcode of the State Uniform Construction Code.

Recodify existing 18.19 as 19.-20. (No change in text.)

5:70-2.1 Enforcement authority

(a) (No change.)

(b) The local enforcing agency shall periodically inspect all premises, except owner-occupied Use Group R3 and R-4 structures used exclusively for dwelling purposes. These inspections shall be made in accordance with the schedule contained in this Code, when required under any cyclical inspection program, and as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with fire operations, or endanger life, or any conditions constituting violations of the provisions or intent of this Code or a locally adopted amendment. Except in the case of cyclical inspection programs or other good cause, inspections shall not include occupied dwelling units.

(c) (No change.)

5:70-2.3 Certificate of smoke detector and carbon monoxide alarm compliance

(a) Before any Use Group R-3 or R-4 structure is sold, leased, or otherwise made subject to a change of occupancy for residential purposes, the owner shall obtain a certificate of smoke detector and carbon monoxide alarm compliance CSDCMAC, evidencing compliance with N.J.A.C. 5:70-4.19, from the appropriate enforcing agency.

1. Where a municipality has existing inspection or approval requirements under a property maintenance or other municipal code, a CSDCMAC shall not be required; provided, however, that the agency responsible for the enforcement of that code shall not issue any certificate of inspection or occupancy or other approval under such municipal code until it has determined that the dwelling

complies with the requirements of N.J.A.C. 5:70-4.19.

2. Where no municipal inspection or approval requirement exists, the agency responsible for enforcement of the Uniform Fire Safety Act shall be responsible for issuance of the CSDCMAC.

i. The Department, where it serves as the enforcing agency, may, upon application by a local fire department, delegate to that fire department the responsibility and authority for issuance of the CSDCMAC within the municipality, or portion of a municipality, served by that fire department.

3. The owner, or authorized agent of the owner, shall apply for a CSDCMAC on a form provided by the enforcing agency. The application shall be accompanied by the appropriate fee, as set forth in N.J.A.C. 5:70-2.9(d).

4. A CSDCMAC shall not be transferable. If the change of occupancy specified in the application for CSDCMAC does not occur within six months, a new application shall be required.

i. The enforcing agency may issue a CSDCMAC for a seasonal rental unit for a period of up to 12 months, regardless of the number or frequency of changes in tenancy.

5. No CSDCMAC shall be issued until inspection of the structure indicates compliance with N.J.A.C. 5:70-4.19, except as provided in (b) below.

(b) The enforcing agency, unless it is otherwise required to inspect the structure under a property maintenance or other municipal code, may accept, in lieu of inspection, a certification that one or more smoke detectors and carbon monoxide alarms, as applicable, have been installed and tested in accordance with N.J.A.C. 5:70-4.19. Such certification shall be upon forms provided by the enforcing agency.

(c) No CSDCMAC or municipal certificate of occupancy shall be issued for any Use-Group R-3 or R-4 structure, or unit therein, as the case may be, unless the structure or unit contains a carbon monoxide detector meeting the requirements of UL Standard 2034; provided, however, that no carbon monoxide alarm shall be required in any building that does not contain any fuel-burning appliances and does not have an attached garage. An "open parking structure," as defined in the building subcode of the State Uniform Construction Code, shall not be deemed to be an attached garage.

5:70-2.9 Fees: registration, certificate of smoke detector and carbon monoxide alarm compliance (CSDCMAC); permit; carnival registration certificate

(a)-(c) (No change.)

(d) The application fee for a certificate of smoke detector and carbon monoxide alarm compliance (CSDCMAC), as required by N.J.A.C. 5:70-2.3, shall be \$20.00.

(e) -(f) (No change.)

5:70-4.19 Smoke detectors for one-two-family dwellings; carbon monoxide detectors

(a) In Use Group R-3 and R-4 dwellings subject to the requirements of N.J.A.C. 5:70-2.3, smoke detectors shall be installed as follows:

1.-2. (No change.)

(b)-(c) (No change.)

(d) Carbon monoxide alarms shall be installed in all dwelling units in buildings in Use Groups I-1, R-1, R-2, R-3 ***and R-4***, except for units in buildings that do not contain a fuel-burning device or have an attached garage, as follows:

1. Single station carbon monoxide alarms shall be installed and maintained in the immediate vicinity of the sleeping area(s).

2. Carbon monoxide alarms may be battery-operated, hard-wired or of the plug-in type and shall be listed and labeled in accordance with UL-2034 and shall be installed in accordance with the requirements of this section and NFPA-720.

3. As an alternative to the requirements of (d) 1 above, and with the approval of the Bureau of Housing Inspection, carbon monoxide detectors may be installed in any building required to be registered as a hotel or multiple dwelling in the locations specified in the Uniform Construction Code (N.J.A.C. 5:23-3.20).

4. As an alternative to the requirements of (d) 1 above, and with the approval of the Bureau of Rooming and Boarding House Standards, carbon monoxide alarms may be installed in any rooming or boarding house in the locations specified in the Uniform Construction Code (N.J.A.C. 5:23-3.20).