

JANUARY 17, 2006

RULE ADOPTION

COMMUNITY AFFAIRS

DIVISION OF FIRE SAFETY

Adopted Amendments: N.J.A.C. 5:74-1.4, 2.1, 2.2, 2.3 and 2.10

Standards for the Certification of Fire Protection Equipment Contractors

Proposed: August 15, 2005 at 37 N.J.R. 2921(a).

Adopted: November 29, 2005 by Charles A. Richman, Acting Commissioner, Department of Community Affairs.

Filed: December 19, 2005 as R.2006 d.33, **with substantive changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:27D-25gg.

Effective Date: January 17, 2006.

Expiration Date: June 14, 2010.

Summary of Public Comments and Agency Responses:

Comments were submitted by The Honorable Stephen M. Sweeney, Senator, Third District; Robert Young, Chairman, American Fire Sprinkler Association; John N. Lemieux and Joe Janiga, Factory Mutual Insurance Company; Anthony Russo, Regulatory Affairs Director, Chemistry Council of New Jersey; James W. Kennedy, Fire Tech Automatic Sprinkler, Inc.; Richard Battista, Fire Protection Industries, Inc.; Christopher Weniger, Chief Fire Marshal, Hillsborough Township; Thomas P. Giblin, Business Manager, International Union of Operating Engineers; Vincent Fichera, Industry Promotion Fund Chairman, National Fire Sprinkler Association, New Jersey Chapter; Raymond Lonabaugh, Regional Manager, National Fire Sprinkler Association, Inc.; Kent Mezaros, Operations Director, Quick Response Fire Protection, Inc.; Joseph Colfer, Business Agent, Sprinkler Fitters Local Union No. 692; Lewis Candura, Business Agent, Sprinkler Fitters Local Union No. 692; and Wayne Miller, Business Manager, Sprinkler Fitters Local Union No. 696.

COMMENT: We strongly object to the removal of fire pumps and water storage tanks from the definition of fire protection equipment. We readily acknowledge that site or utility contractors, in the majority of cases, perform the installation of underground fire protection piping. These contractors, for the most part, have the requisite knowledge and experience to properly install underground piping; however, water tanks, and especially fire pumps, are very specialized pieces of equipment that require a high degree of knowledge and proficiency to install, alter, maintain, inspect or test. We do not believe the Fire Protection Equipment Advisory Committee intended their recommendation to include exclusion for these items from the fire protection equipment definition. Certified personnel should do this work since they are experts in knowing what densities the different hazards need to maintain.

RESPONSE: The Department agrees and has made this adjustment in the adoption. The Fire Protection Advisory Committee did not intend for the Department to remove fire pumps and water storage tanks from the purview of N.J.A.C. 5:74. This change will not have a major impact on the industry since sprinkler contractors have traditionally installed fire pumps and water storage.

COMMENT: Removing yard hydrant systems, fire pumps, private fire service mains, control valves, and water storage tanks from N.J.A.C. 5:74-1.4 would present a threat to both life and property. Only State certified fire protection contractors should be allowed to install these items. These components are a critical part of a fire protection system, and if the water is not properly

delivered, the rest of the system fails. Certified fire suppression contractors are the only ones capable of performing hydraulic calculations and technical engineering tests. Amending out the items mentioned above would remove the technical inspection and engineering functions currently performed by duly trained, tested and licensed fire suppression system contractors and their trained, experienced sprinkler fitter employees, including members of Sprinklers Fitters Local Union 692 and 696.

RESPONSE: The Department agrees that yard hydrant systems, private fire service mains, fire pumps, control valves and water storage tanks are "fire protection equipment" as defined at N.J.S.A. 52:27D-25n. Additionally, the Department acknowledges that fire pump, control valve, and water storage tank work is largely done by suppression contractors. Because of this, the Department has revised the proposed amendments upon adoption to return the latter items to the N.J.A.C. 5:74-1.4 definition of "fire protection equipment." Private fire service main and yard hydrant system work, however, has traditionally been done by site and utility contractors. These personnel do not need the extensive training required by these rules for sprinkler contractors. Consequently, the Department will not return these items to the N.J.A.C. 5:74-1.4 definition of "fire protection equipment." The Department will continue to work with the Fire Protection Equipment Advisory Committee to possibly develop training and certification standards applicable to the fire protection equipment work performed by site and utility contractors.

COMMENT: The Sprinkler Fitter's Union and the Contractor's Association raise important concerns as they relate to fire protection in this State. The proposed amendment that removes yard hydrant systems, fire pumps, private fire service mains, control valves, and water storage tanks from the definition of "fire protection equipment" should be given a thorough reconsideration. The finalized rule should not compromise the safety of New Jersey residents.

RESPONSE: The adopted rules would regulate contractors and personnel who work on control valves, fire pumps and water storage tanks. The removal, pending further study, of the items typically installed by site or utility contractors would not compromise the safety of the residents of New Jersey. The proposal Summary clearly indicated the proposed amendments were not intended to apply to work traditionally performed by site and utility contractors. If the Department regulated ancillary on-site work but not similar off-site work, constitutional issues would arise such as those discussed in *The Mechanical Contractors Association v. State of New Jersey*, 255 N.J. Super. 488 (1992). Note that site and utility contractor work is subject to the Uniform Construction Code, N.J.A.C. 5:23, and other State and national standards.

COMMENT: I support the standardized tags and forms requirements. These items will greatly assist inspectors.

RESPONSE: The Department appreciates the comment. Because of the length of time it has taken to get the amended rules finally adopted, the Department, at N.J.A.C. 5:74-2.1(f)3, has extended the deadline for the use of standardized tags and forms to January 1, 2007.

COMMENT: Please clarify what homeowners would be responsible for in single or two-family homes. I cannot believe the committee intended to allow either the homeowners themselves or other non-qualified or non-certified contractor's to perform life safety work in a residence.

RESPONSE: The legislation and accompanying regulations have never applied to owners of one and two family dwellings. Clearly, the legislation was intended to apply to people who perform work for others. A homeowner who performs his or her own fire protection equipment work would

be required to get the necessary Uniform Construction Code or other permits and to have the required inspections.

COMMENT: Fire protection systems are often jeopardized because an element is not properly installed or tested by others. This leads to issues of properly assessing contractor liability. Any part of the system that fails because it was not properly installed or tested by a certified fire suppression equipment contractor may lead to certified fire suppression system contractor liability.

RESPONSE: The Department believes that contractor liability would be limited to those items where the contractor has a regulatory responsibility.

COMMENT: We have reviewed the proposal and commend the authors. The changes regarding in-house work would remove onerous restrictions that have recently prevented building owners and occupants from performing basic safety inspections and responding to emergencies. We are certain the State's population will be safer as a result of the implementation of these proposals. We feel that the certification requirements laid out in the regulations were not appropriate for the type of work performed in house.

RESPONSE: The Department agrees and appreciates the comment.

Federal Standards Statement

A Federal standards analysis is not applicable since these amendments are not being adopted under the authority of or in order to implement, 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***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

5:74-1.4 Definitions

The following terms shall have the meanings indicated except where the context clearly requires otherwise.

...

"Emergency work" means immediate, Uniform Construction Code-compliant actions taken solely to stabilize an unexpected situation thereby reducing property damage or protecting life safety including, but not limited to, actions taken as a result of frozen sprinkler piping or interrupted water or power supplies.

...

"Fire protection contractor" or "contractor" means a person, including an in-house employee who performs other than routine maintenance, inspection or testing, or business entity that offers to undertake or represents itself as being able to undertake, or does undertake the installation, service, sale, repair, inspection or maintenance of fire protection equipment.

...

"Fire protection equipment" includes ***fire pumps, control valves, water storage tanks,*** fire alarm systems, fire sprinkler systems, standpipe systems, clean agent fire suppression systems, special hazard fire suppression systems, carbon dioxide fire protection systems, foam fire protection systems, kitchen fire protection systems, portable fire extinguishers, or any other equipment designed to detect, suppress or extinguish a fire.

...

5:74-2.1 Business permits

(a) (No change.)

(b) A permit shall be required for each business that is engaged in the fire protection equipment business, or otherwise engages in the installation, service, repair, inspection or maintenance of fire protection equipment.

i. A permit shall not be required if a business entity's employees performs in-house the services listed in N.J.A.C. 5:74-2.2(a).

(c) An application for a permit to engage in the fire protection equipment business shall be made to the Contractor Certification and Emblems Unit within the Division of Fire Safety in the manner and on the forms as the Division may prescribe.

1.-2. (No change.)

3. Permit holders shall apply for an amended permit whenever there is a change in qualifier, ownership address or other required information.

(d)-(e) (No change.)

(f) No holder of a business permit qualified under the provisions of this chapter shall engage in the fire protection equipment business unless the permit holder:

1. (No change.)

2. Clearly marks the outside of each installation and service vehicle to be used in conjunction with the fire protection equipment business with the business name, Division permit number prefaced with "NJDFS Permit", and a 24-hour emergency service telephone number, if required in (f)4 below. Both sides of the vehicle must be marked. The marking of the vehicle must use letters and numbers at least one inch in height and must be in a contrasting color to the vehicle;

3. By *[January 1, 2006]* ***January 1, 2007***, renders all required tags and inspection forms identical in form and color to that approved by the Division of Fire Safety and preprinted with the company name, business permit number, and an area for a certified individual's certification number.

Recodify existing 3.-5. as 4.-6. (No change in text.)

(g)-(n) (No change.)

5:74-2.2 Certifications required

(a) After June 30, 2003, no fire protection contractor shall engage in the installation, service, repair, inspection or maintenance of fire protection equipment without holding or employing a person who holds a valid certificate of certification issued in accordance with this chapter.

1. (No change.)

2. The Division shall not require an in-house employee to obtain a certificate of certification for performing routine maintenance or monthly, weekly, or daily inspection or testing of fire protection equipment provided:

i. The employer has a documented, readily-available procedure in effect governing routine maintenance and monthly, weekly or daily inspections and testing; and

ii. The employer can provide proof the personnel performing the work have been trained on the current Uniform Fire Code provisions governing routine maintenance or monthly, weekly, and daily inspection or testing for the work they may be required to perform.

3. A non-certified person shall not perform any quarterly, annual, or other non-routine, required maintenance.

4. A certificate of certification shall not be required if an in-house employee responds in-house to equipment malfunction or damage that requires immediate attention provided:

i. Certified personnel verify the operation of the equipment within 48 hours after the onset of the emergency;

- ii. A log is kept of all emergency work performed including the date and time the work was verified by a certified person and the name, certification number and signature of the verifier;
 - iii. Trained personnel perform the emergency work; and
 - iv. A documented, readily-available procedure is in effect.
5. A certificate of certification shall not be required for employees of a nuclear power plant if such employees are qualified through the Institute of Nuclear Power Operations accredited training programs. This exemption does not apply to private contractors performing work within the nuclear power plant.
- i. Training records must be kept on each nuclear power plant employee detailing the areas of training that the employee has completed along with a copy of the curriculum.
6. A certificate of certification shall not be required if a person owning and residing in a detached one- or two-family dwelling performs work within his or her residence.
- (b)-(f) (No change.)

5:74-2.3 Requirements for certification

- (a) Any candidate for certification or a certificate in any of the fire protection contractor titles pursuant to this chapter shall submit an application to the Contractor Certification and Emblems Unit in the Division of Fire Safety accompanied by the fee established at N.J.A.C. 5:74-2.10. Certificate holders shall apply for an amended certificate whenever there is a change in name, ownership address or other required information.
- 1. (No change.)
- (b)-(d) (No change.)

5:74-2.10 Fees

- (a) No application for a permit or certification shall be acted upon unless the application is accompanied by a fee as follows:
- 1.-4. (No change.)
 - 5. The application fee for an amended permit shall be \$ 50.00.
 - 6. The application fee for an amended certificate shall be \$ 25.00.
- (b)-(c) (No change.)