

# Construction Code Communicator



State of New Jersey  
Chris Christie, Governor  
Kim Guadagno, Lt. Governor

Department of Community Affairs  
Lori Grifa, Commissioner

Volume 22, Number 4

Winter 2010

## A Change to the Communicator, Winter 2010

Beginning with this issue, Winter 2010, the final issue of the *Construction Code Communicator* each year will consist of a collection and re-printing of all the Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items that were posted on the Division's website during the calendar year.

Once the *Construction Code Communicator* has been posted, the individual Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items will be removed from the Division's website. However, it will still be possible to see a copy of any of these documents as it was originally posted on the Division's website by accessing the Division's Document Library or through the "Topics A-Z" tab on the Division's website: [www.nj.gov/dca/divisions/codes/](http://www.nj.gov/dca/divisions/codes/).








So, in this issue, for the first time, there are no new articles. The Index for all four issues of the *Construction Code Communicator* 2010 is included in this issue as a handy reference.

Prospectively, the *Construction Code Communicator* will follow this same format: three issues, Spring, Summer, and Fall, that contain articles and a Winter issue that will provide in one place all the Alerts, Hot Topics, Letters from the Director, guidance documents, and other information items that were posted on the Division's website in that calendar year. We hope that you will appreciate this change to the *Construction Code Communicator*.

If you have any questions about the *Construction Code Communicator*, or if you have any recommendations for articles, please feel free to contact me at (609) 984-7609 or at [etempleton@dca.state.nj.us](mailto:etempleton@dca.state.nj.us).

Source: Emily W. Templeton  
Division of Codes and Standards

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## New! Electronic Communication with Plan Review Applicants

In a November 2010 Alert, the Bureau of Construction Project Review announced:

Beginning on or about November 22, 2010, the Department of Community Affairs, Division of Codes and Standards, Construction Plan Review units will begin sending all plan review correspondence electronically.

To assist with this transition please provide an email address on all project review applications. An updated application, including email address, may be found on the bureau's website (<http://www.nj.gov/dca/divisions/codes/offices/bcpr.html>) under the Related Forms section located at the bottom of the page. Correspondence submitted for an existing project should also include email addresses for each applicant (owner and/or owner's agent and architect/engineer).

**If you prefer correspondence be sent through regular mail you must check the appropriate box on the project review application.** It should be noted that if any applicant contacts opt out of email communication (owner or architect), all correspondence will be sent regular mail. We cannot accommodate partial email communication.

**If you would like to email documentation to the BCPR please send to: [planreviewintake@dca.state.nj.us](mailto:planreviewintake@dca.state.nj.us)**

**Please take note of a few items before emailing information to BCPR:**

- Information should be sent as an attachment. All attachments should be in PDF format or the office may not be able to open, read or respond.
- Do not send duplicate documentation. If you have sent an email response please do not send a copy through regular mail. This may cause duplication of work and thus, slow down the review process.
- Do not send project status questions. The above email address is to be used exclusively for sending requested documentation. If you have a question about a project please contact the appropriate review team. Teams may be reached at the phone numbers listed below.
- **Do not send any correspondence requiring plans or other signed and sealed documentation. Rather, send it along with plans to the following:**

Class I, II, Special Projects, State Buildings Healthcare Facilities Plan Review	NJ DCA Division of Codes and Standards Bureau of Construction Project Review PO Box 817, 101 S. Broad Street, 4th floor Trenton, NJ 08625-0817
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Educational Facilities Plan Review	NJDCA Division of Codes and Standards Education Plan Review Unit 200 Wolverton Avenue PO Box 821, Building 20, 2nd floor Trenton, NJ 08611
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Casino Projects Plan Review	NJDCA Division of Codes and Standards Atlantic City Plan Review Office 1601 Atlantic Avenue, 6th floor Atlantic City, NJ 08401
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If you have a question regarding a specific project review teams may be reached at:

Bureau of Construction Project Review	609-984-7850
State Buildings	609-984-7865
Class I, II and Special Projects	609-633-7448
Health	609-633-8151
Education	609-943-5157
Atlantic City	609-441-3679

## 2006 International Fire Code Adopted with Amendments

*In a letter dated February 5, 2009 Directors Wilk and Petrillo wrote:*

Dear Construction Officials and Fire Officials:

As fire officials already know and construction officials may be aware, the Department has adopted the 2006 International Fire Code, with amendments, as the new State Fire Prevention Code, N.J.A.C. 5:70-3. This new State Fire Prevention Code took effect on February 1, 2009. The enforcement of this new code will require an increased level of cooperation between the local construction official and the local fire official.

In the past, BOCA published a model fire prevention code that included only maintenance requirements. The International Fire Code, which is referenced in the International Building Code, contains both construction and maintenance requirements. As adopted under the Uniform Fire Code (UFC), the New Jersey edition of the International Fire Code is meant to address the maintenance of buildings and sites in compliance with applicable fire safety requirements. Requirements for the installation of new fire safety equipment are found in the Uniform Construction Code (UCC) or in the retrofit requirements of the UFC, N.J.A.C. 5:70-4.

Local officials need to be aware of the applicability of the requirements of both the UFC and the UCC in order to enforce these codes effectively. Any suspected lack of compliance with the UCC or change in the character of the use should be referred by the fire official to the construction official. The construction official should then cite any verified lack of compliance with the UCC, including any change in the character of the use as described in the rehabilitation subcode of the UCC, N.J.A.C. 5:23-6.31. A change in the character of the use is not necessarily a change in the group designation. For example, a change to a higher degree of hazard, as defined by NFPA 13, which would trigger a change in the required sprinkler protection, would be considered a change in the character of the use and should be cited under the UCC. (See N.J.A.C. 5:23-6.31(g)). Another example of a change in the character of the use is the introduction of equipment or operations that require local exhaust under the mechanical subcode of the UCC. (See N.J.A.C. 5:23-6.31(n)). As always, process equipment is a special case. The UCC applies to the installation of process equipment, but does not impose requirements on the equipment itself. The UFC does contain requirements applicable to process equipment.

*See International Fire Code –page 6*

## 2008 NEC and the Rehab Subcode

*In a letter dated October 20, 2009 and updated February 3, 2010 Code Specialist Suzanne Borek wrote:*

Updating the Rehabilitation Subcode to the NEC/2008 has been delayed. Therefore, the Department is hereby reminding all code users that any work done in an existing building or dwelling continues to be required to comply with the NEC/2005, which is referenced in the rehabilitation subcode, materials and methods, N.J.A.C. 5:23- 6.8(d).

For example, when an existing service panel is changed or upgraded, no AFCI is required.

However, an addition to an existing building is new construction. The addition **only** is required to comply with the 2008 NEC. Work in the existing building continues to be required to comply with NEC/2005. For dwelling units, AFCI for the addition will be required only **if** a new branch circuit is provided. It is important to remember that existing circuits in the existing dwelling may continue to be used.

Finally, if a permit applicant chooses to use the 2008 NEC, guidance is included in the Fall 2009 edition of the *Construction Code Communicator*.

Please contact me if you have any questions. Thank you.

Sincerely,

Suzanne Borek, Code Specialist  
State of New Jersey, Div. of Codes and Standards  
Code Assistance Unit (609) 984-7609

## Concrete Testing Alert

*In a letter dated September 16, 2009 Director Wilk wrote:*

Dear Construction Official:

It has come to the attention of the Department that several special testing agencies have been indicted in New York City. One of the charges involves fraud in connection with the testing of concrete. Due to these allegations, I am requesting you to do the following:

Please review your files for all Class 1 buildings to determine the name of the special inspection testing agency for special inspections performed from January, 2006 to present. If Testwell Laboratories or Stallone Testing Laboratories did any of the concrete

*See Concrete Testing Alert –page 6*

# Fire Alarm Transmission Channels and Managed Facilities (MFVNs)

In a letter dated November 1, 2010 Director Smith wrote:

Dear Construction Official and Fire Subcode Official:

An issue has arisen in reference to providing phone service to facilities that are required to have a fire alarm system. As many of you are aware, for a few years we have had questions about fiber optic service companies providing phone line service via a package deal with internet and/or television service. This letter provides guidance on whether a service provider can provide the required transmission means to a monitoring company.

### Background

Starting in the early 1980's, fire alarm transmissions from protected premises to the supervising station were sent through Digital Alarm Communicator Transmitters (DACTs) over "Plain Old Telephone Service" (POTS). DACTs were originally designed to utilize POTS on the Public Switched Telephone Network (PSTN). POTS is the old copper line system that served every home or business with a telephone line. For many years, only this style of wiring was used and NFPA required that the primary transmission channel be a "telephone line (number)". This ensured that the transmission means was on a reliable circuit to the telephone company central office and then was switched to the number that the caller was trying to reach. Many times, when the signal left the telephone company office, it was carried on optical fiber. All POTS was on a battery backup power system. (Think about how many storms there were while you were growing up and your power went out, but you still had phone service.) POTS was and is a very reliable system, however the telephone company found a better way to transmit its communications and started using light over fiber optic service for telephone transmission. In many areas, POTS has been replaced with optical fiber, so your phone line (number) now comes to you by fiber optic service; you can also receive internet and television service, such as FIOS, by that means.

### Code Requirements

The New Jersey Uniform Construction Code currently adopts the International Building Code (IBC)/2009. The IBC/2009 references the National Fire Protection Association (NFPA) 72/2007 standard, which requires that DACTs be connected to the PSTN.

The recently published NFPA 72/2010, which is not adopted by reference in the building subcode, contains a

### Concrete Testing Alert

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testing, please contact Louis Mraw of the Office of Regulatory Affairs at 609-984-7672 for instructions as to how to proceed.

Be assured that the Division will work with your office to determine whether the test results are acceptable in accordance with the requirements of the Uniform Construction Code. Realizing that this is a very time-consuming task, please make every attempt to complete this review by the end of November, 2009.

Thank you in advance for your time and effort.

Sincerely,  
Cynthia A. Wilk, Director  
Division of Codes and Standards

### International Fire Code

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The new State Fire Prevention Code also contains requirements applicable to fire hazards at construction sites (Chapter 14 of the International Fire Code). The UCC governs construction with the ultimate goal of ensuring that structures build in this State are safe for occupancy. The UFC is based on a somewhat different mandate which includes fire prevention and firefighter safety. It is for this reason that the local fire official has jurisdiction to deal with fire safety at a construction site. The construction official's role at the site is to ensure that construction proceeds in compliance with the adopted subcodes of the UCC. The UCC does not address the safety of the building or site during construction beyond seeing that the site does not pose risks to the general public.

The New Jersey edition of the 2006 International Fire Code is available online in a view only format at <http://www2.iccsafe.org/states/06NewJerseyFire/>. In addition to a link to view the new code, the Division of Fire Safety's website has a mechanism to submit questions regarding the new code. Frequently asked questions and answers regarding the new State Fire Prevention Code also are posted on the Division's website at <http://www.state.nj.us/dca/dfs/>.

If there are any questions regarding the UCC, as always, please call the Code Assistance Unit at (609) 984-7607. If there are questions about the UFC, the Division of Fire Safety prefers that these questions be submitted electronically through the Division's website, or you may call the Division at (609) 633-6132.



**MFVNs**

*continued from page 6*

new term "Managed Facilities Voice Networks" (MFVNs). This term has caused concern for some providers. However, MFVNs are the functional equivalent of PSTN. NFPA 72/2010 states that traditional POTS, Cable and FIOS are permitted for transmission channels as long as the signaling protocols are fully compatible with and equivalent to those of the PSTN. NFPA 72/2010 was amended before printing by a Tentative Interim Amendment (TIA) that clarified the definition in Chapter 3 and the requirements in Chapter 29.

Both NFPA 72/2007 and 2010 require that a secondary power supply be installed to provide a minimum of 24-hour standby power when a fire alarm system is installed. A battery backup unit (BBU) is a compliant secondary power supply. Most fiber optic service providers provide an eight hour BBU supply, in some cases, they provide four hours. So, a separate BBU is required to be installed wherever a monitored fire alarm system is installed.

**Guidance**

The term "Managed Facilities Voice Networks" was added to clarify that Cable or FIOS companies could provide the telephone line (number) required for DACTs. Because NFPA 72, Section 1.5., Equivalency, allows the local fire subcode official to accept systems that provide equivalent protection, NFPA 72/2007 already addresses this issue when the Cable or FIOS companies provide the telephone line service required by the standard. The Cable or FIOS companies need to provide a means of transferring the signal from the fire alarm communicator to their network and provide the required backup power supply on any interface equipment. MFVNs may be used provided that they offer demonstrated equivalent reliability. When the performance standard is met, the communication method is acceptable and the Local Enforcing Agencies can approve these installations. Attached is a matrix that should be used to evaluate various service providers.

If you have questions please call the Code Assistance Unit at (609) 984-7609 or email [codeassist@dca.state.nj.us](mailto:codeassist@dca.state.nj.us)

Sincerely,

Edward M. Smith, Director  
Division of Codes and Standards

**International Fire Code**

*continued from page 6*

There are bound to be some adjustments needed as we make the transition to the new State Fire Prevention Code. We would encourage you to work together to continue to ensure the health and safety of the occupants of New Jersey's buildings.

Sincerely,

Cynthia A. Wilk, Director  
Division of Codes and Standards

Lawrence Petrillo, Director  
Division of Fire Safety

## Installation of Renewable Energy Systems

*In a letter dated February 4, 2009 Director Wilk wrote:*

Dear Construction Official:

P.L. 2008, c. 90, signed into law by Governor Corzine last October, offers property tax relief for the installation of renewable energy systems. Under this statute, the assessed value of the property is not increased as a result of the installation of a renewable energy system. The law calls for the local construction official to certify that the system meets the requirements of the statute for a renewable energy system.

In order to implement this new law, the Division of Taxation must develop a form. The law also calls for us to work collaboratively with the Board of Public Utilities regarding technical standards for these systems. When the form, standards and rules are in place, we will advise you. Thereafter, the permit applicant will bring a completed form to you and you will certify, by signing the form, that the system has been installed as prescribed and that the required documentation has been submitted. There is nothing for you to do until such time as the form and rules are in place.

In the meantime, if you have any questions regarding this law, please contact the Code Assistance Unit at (609) 984-7607.

Sincerely,

Cynthia A. Wilk, Director  
Division of Codes and Standards

## Installation of Renewable Energy Systems

*In a letter dated December 2, 2009 Director Wilk wrote:*

Dear Construction Official:

On February 4, 2009, I sent you a letter concerning P.L. 2008, c.90, a law which offers property tax relief for the installation of renewable energy systems. Under this statute, a property owner who installs a renewable energy system in accordance with all applicable rules, standards and manufacturer's instructions can apply for approval to the local enforcing agency and, if the renewable energy system is approved, to the tax assessor.

I advised you in February that in order for the program to be implemented, the Division of Taxation would first have to adopt an application form. That form has now been adopted. It may be found online at [http://www.state.nj.us/treasury/taxation/pdf/other\\_forms/lpt/cres.pdf](http://www.state.nj.us/treasury/taxation/pdf/other_forms/lpt/cres.pdf).

The form provides a place for the construction official to certify that the application has been approved. The form may be presented to you by the applicant at the time of permit application or prior to final inspection. Once you have signed the form, it should be forwarded to the tax assessor.

We will be meeting with the Board of Public Utilities to determine what standards exist that are applicable to renewable energy systems and should be incorporated into the Uniform Construction Code (UCC). In the interim, the UCC already provided for the use of the manufacturer's instructions and standards. These should be used for plan review and inspection of renewable energy systems. The application may be approved provided that the system, as installed, conforms to these standards.

If you have any questions regarding the implementation of this law, please call the Code Assistance Unit at (609) 984-7607.

Sincerely,

Cynthia A. Wilk, Director  
Division of Codes and Standards

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## Installation of Solar Photovoltaic Power

*In a letter dated July 23, 2010 Director Wilk wrote:*

Dear Construction Official:

Local code enforcement agencies are receiving an increasing number of applications for the installation of solar photovoltaic (PV) power generating equipment. With this influx of solar energy installations, there has been some confusion as to what constitutes an "electrical generating station" for purposes of determining whether this is an enforcement activity reserved to the State pursuant to N.J.A.C. 5:23-3.11. This letter is intended to clarify which installations should be submitted to the Department for review.

The operative question is whether the PV installation supplies electricity for a building or buildings on site and has net metering. (This is an arrangement through which any unused power generated by the solar panels is "sold" to the utility company.) The amount of electricity that may be generated by these PV installations is limited to the peak usage on the site. By contrast, PV installations that should be considered electrical generating stations for purposes of applying the above rule have no meters and no limits on the amount of power that may be generated. As with more traditional electrical generating stations, the electricity generated at the site is fed back into the grid for use elsewhere.

Should you have any questions, please feel free to contact the Code Assistance Unit at (609) 984-7609.

Sincerely,

Cynthia A. Wilk, Director  
Division of Codes and Standards

## Satellite Dish Antenna Installations

*In a letter dated June 23, 2010 Director Wilk wrote:*

Dear Electrical Subcode Officials:

The Department has had discussions with the representatives of GTECH, who are performing the installation of satellite dish antennas and appurtenant wiring at lottery outlets throughout the State. The satellite systems in question are being installed under a contract with the State of New Jersey Lottery Commission.



**Satellite Dish Antennas**

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**Minor Work and Inspections**

The actual installation of the satellite dish antenna is exempt from permits as a result of a federal preemption. However, when the communication wiring connecting the satellite dish penetrates a rated assembly, the installation of the telecommunications wiring from the antenna to the terminal is considered minor work and thus requires a construction permit (N.J.A.C. 5:23-2.17A(c)4iv). The contractor (GTECH) is required to have its installers identify each retail location where a satellite installation is taking place that penetrates a fire-resistance rated assembly. In these instances, the contractor is required to contact the local code enforcement agency to apply for a permit and, once the work is completed, request an inspection. Because there were questions as to whether permits were required, there was a period of time where a number of satellite dish antennae were installed without obtaining construction permits. In the case of work performed before the issuance of this letter, the contractor is required to identify those installations that involved a penetration through a fire resistance rated assembly and apply for "Minor Work" construction permits for these installations. In cases where no penetration of a rated assembly is necessary, there are no permits required, and therefore, there is no notice required. If work is performed after the issuance of this letter that would require a construction permit, "Minor Work" or otherwise, and none is obtained, the construction official is authorized to issue the appropriate penalty.

The inspection performed is under the jurisdiction of the electrical subcode due to the fact that the communication wiring being installed is regulated by the electrical subcode. Inspectors should focus on Section 300.21 of the National Electrical Code entitled, "Spread of fire or products of combustion," which requires openings around electrical penetrations of fire resistance-rated assemblies to be fire-stopped using an approved method and on Chapter 8 for the material installation and the support of the wiring and the raceway. Again, this type of installation is "Minor Work" therefore, the inspection is based upon what is visible at the time of *New Jersey Is An Equal Opportunity Employer Printed on Recycled Paper and Recyclable* the inspection and the certificate of approval needs to state that the work performed substantially complies with the UCC. Finally, the Board of Examiners of Electrical Contractors requires that this work be performed either by a New Jersey licensed electrical contractor or by an installer who possesses a Telecommunications Wiring Exemption Certificate.

**Fees**

The fee calculation for the installation of telecommunications wiring falls within the electrical

*See Satellite Dish Antennas -continued at right*

**Satellite Dish Antennas**

*continued from left*

technical section. The Uniform Construction Code provides that, for electrical fixtures and devices, the fees are to be based upon the number of electrical fixtures or rating of electrical equipment and devices to be installed. Therefore, in this case, the fee is based on the number of "communication points" which are the telecommunication wires installed and connected to the lottery equipment in the building. There is no additional fee that can be charged to look at the penetrations resulting from the installation. This is all part of the inspection related to the total number of "communication points."

Should you have any questions, please feel free to contact the Code Assistance Unit at (609) 984-7609.

Sincerely,

Cynthia A. Wilk, Director  
Division of Codes and Standards

**Telecommunications Wiring and Fire Rated Assemblies**  

*In a letter dated March 5, 2009 Director Wilk wrote:*

Dear [Electrical] Subcode Officials:

This letter provides a clarification of the permit and inspection requirements for the installation of telecommunications wiring, which includes telephone, data and cable television. This type of work is minor work (in accordance with N.J.A.C. 5:23-2.17A) in Class 3 buildings where fire rated assemblies are penetrated, and in all Class 2 and Class 1 buildings, including multi-family residential high rise structures.

The Uniform Construction Code (UCC) states that notice of minor work must be given to the enforcing agency before the work commences (N.J.A.C. 5:23-2.17A(a)). Oral notice meets this requirement and may be provided in person or by telephone before the work begins (N.J.A.C. 5:23-2.17A(b)1). In addition to providing notice to the enforcing agency, a permit application must be filed and fee paid within five business days of the date of oral notice (N.J.A.C. 5:23-2.17A(b)2).

Construction permit fees for the installation of telecommunications wiring should be charged based on the ownership of the building. For a building that has one owner with multiple tenants, the fee is the minimum fee for each floor penetration (located on the lower portion of the electrical technical section) and the total

*See Telecommunications Wiring -page 10*

**Telecommunications Wiring**

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number of drops going to each individual tenant (on the upper portion of the electrical technical section, listed as "communications points"). For a building that contains individually owned units, a construction permit is issued for the core installation. The minimum fee is charged for penetrations through each floor. A permit and fee is also required for each individual unit that receives a drop and the fee is based on the number of drops to each unit; it is placed on the "communications point" line.

The inspections confirm compliance with the National Electrical Code (NEC)/2005 with specific attention to Section 300.21, Spread of Fire or Products of Combination. This section states that openings around electrical penetrations through fire-resistant walls, partitions, floors, or ceilings are required to be fire-stopped using approved methods to maintain the fire-resistance rating. Chapter 8 of NEC/2005 applies to the specific type installation, typically the supporting and securing of the wiring.

Finally, any work being performed in or on a building or structure is subject to the regulations of the UCC. The Board of Examiners of Electrical Contractors requires that this work be performed either by a New Jersey licensed electrical contractor or by an installer who possesses a Telecommunications Wiring Exemption Certificate.

In summary, minor work is not exempt from the UCC. The requirements for minor work are in the UCC at N.J.A.C. 5:23-2.17A. Before work begins, oral notification is required to be given to the enforcing agency; the electrical technical section of the construction permit application must be signed by a New Jersey licensed electrical contractor or by an applicant who possesses a Telecommunications Wiring Exemption Certificate within five business days. By definition, "minor work" does not require a plan review; therefore, plans are not required to be submitted for this type of work.

A notice of violation for work performed without a permit is issued for any installations that are not in compliance with the UCC regulations. If compliance is not achieved, then a stop work order is posted and issued in accordance with regulations.

Should you be in need of further assistance on this issue, please contact Suzanne Borek of the Code Assistance Unit at (609) 984-7609.

Very truly yours,

Cynthia A. Wilk, Director

## US EPA Lead-Based Paint Renovation, Repair and Painting (RRP) Rules

*In an August 2010 Alert, the Division reported:*

### What are the RRP Rules?

The US Environmental Protection Agency (EPA) has adopted rules for contractors performing work that disturbs lead-based paint. The rules, known as the RRP rules, apply to renovation, repair, painting or any other activity that disturbs painted surfaces. These rules require that contractors performing work in housing built before 1978 or in child-occupied facilities (schools or day care centers) be certified by the EPA. The certified renovator must be trained in lead-safe work practices through completion of an EPA-accredited course and is responsible for compliance with the US EPA rules. The contractor is also required to distribute a lead pamphlet before starting work. The rules exempt work that will disturb six square feet or less of paint per room in the building's interior or 20 square feet of painted surface or less on the exterior. Work in buildings that have been tested and found to be free of lead-based paint is also exempt. ***The deadline for contractors to be certified has been extended to October 1, 2010.*** (Individuals must enroll in a certified class by September 30, 2010 and must complete the class by December 31, 2010.)

### Who is responsible for enforcement of these rules?

States may apply to the US EPA for authorization to administer this program. The EPA is the enforcement agency in states that do not apply for authorization. New Jersey has *not* applied. This means that the EPA is the enforcement agency for the RRP rules in New Jersey.

### Is the EPA certification to be treated as a prior approval for obtaining a permit under the UCC?

No.

### Does the code official have any enforcement responsibility with regard to these EPA rules?

No. As stated above, enforcement rests with the EPA.

This information has been provided to you so that you are aware of the new EPA requirements and are able to respond to questions from homeowners or contractors. If anyone has further questions or would like additional information, you may direct them to the EPA website at <http://www.epa.gov/lead/pubs/renovation.htm>. There is also a link on the Division's webpage.

## Outdoor Wood Boilers

*In a letter dated June 3, 2009 Director Wilk wrote:*

Dear Construction Official:

As you may recall, in November 2008, I sent a letter regarding issues that have arisen with outdoor wood boilers. As promised, we reached out to the Department of Environmental Protection (DEP) and discussed the difficulties inherent in issuing permits under the Uniform Construction Code to those who want to install outdoor wood boilers only to have enforcement action taken against them at some future date. Unfortunately, there is no ready solution to this problem. There is no way to predict whether a given outdoor wood boiler, once installed and in use, will comply with the DEP rules.

To ensure that any homeowner who applies for a permit to install an outdoor wood boiler is aware that this is the case, we are asking that local construction officials have permit applicants sign the attached acknowledgement and retain a copy in the permit file. A copy of the relevant section of the DEP rules also is attached for your reference (N.J.A.C. 7:27-3). Under these rules, smoke from outdoor wood boilers may be visible for not more than three minutes in any consecutive 30 minute period. These rules apply only to indirect heat exchangers. Outdoor wood boilers meet the definition of indirect heat exchanges. Chimineas, fireplaces, and traditional wood-burning stoves do not.

For your convenience, the November 2008 letter, the DEP rules and the acknowledgement to be signed by permit applicants all are available on the Division's website at [www.state.nj.us/dca/divisions/codes](http://www.state.nj.us/dca/divisions/codes). Should you have any questions, please feel free to contact the Code Assistance Unit at (609) 984-7607. Homeowners with questions regarding the DEP standards should be referred to the Air Compliance and Enforcement Unit within the DEP at (609) 633-7288.

Sincerely,

Cynthia A. Wilk, Director  
Division of Codes and Standards

## Outdoor Wood Boilers

*Relevant section of the DEP rules:*

### **7:27-3.1 Definitions**

\*\*\*

"Indirect heat exchanger" means equipment in which heat from the combustion of fuel is transferred by conduction through a heat-conducting material to a substance being heated, so that the latter is not contacted by, and adds nothing to, the products of combustion.

"Internal cross-sectional dimension" means any maximum linear perpendicular distance from an inside wall of a stack or chimney to the inside of an opposite wall, such as the diameter of a circular cross section or the length or width of a rectangular cross-section.

\*\*\*

### **7:27-3.2 Smoke emissions from stationary indirect heat exchangers**

(a) No person shall cause, suffer, allow or permit visible smoke to be emitted into the outdoor air from the combustion of fuel in any stationary indirect heat exchanger except as provided in (b) below.

(b) No person shall cause, suffer, allow or permit smoke the shade or appearance of which is darker than number 1 on the Ringelmann smoke chart or greater than 20 percent opacity, exclusive of visible condensed water vapor, to be emitted into the outdoor air from the combustion of fuel in any stationary indirect heat exchanger having a rated hourly capacity of 200 million BTU or greater gross heat input and discharging through a stack or chimney having all internal cross-sectional dimensions of 60 inches or greater.

(c) The provisions of (a) and (b) above shall not apply to smoke which is visible for a period of not longer than three minutes in any consecutive 30-minute period.

## Outdoor Wood Boiler Construction Code Permit Notice and Acknowledgement

Under the New Jersey Administrative Code, Title 7, Chapter 27 (N.J.A.C. 7:27), Air Pollution Control, the NJ Department of Environmental Protection (DEP) regulates smoke emissions from indirect heat exchangers. Outdoor wood boilers (OWB) and outdoor hydronic heaters (OHH) meet the definition of indirect heat exchangers and are therefore subject to the requirements of N.J.A.C. 7:27-3 "Prohibition of Smoke from the Combustion of Fuels."

Smoke from OWBs or OHHs have been known to exceed DEP's standards. The manufacturers are not required to label, document or otherwise disclose the quantity of smoke produced by these devices. There is no means to predict whether a given outdoor wood boiler, when in use, will violate the DEP smoke emission limit.

Issuance of a Uniform Construction Code (UCC) permit does not guarantee that a unit will meet the DEP requirements. An outdoor wood boiler that has been installed in accordance with all applicable requirements established under the UCC may still be subject to some future enforcement action by the NJDEP, including penalties to the vendor, installer and property owner.

Homeowners with questions about compliance with the emission standard are advised to contact the NJDEP at (609) 633-7288 or the county health department.

I acknowledge that I have been given a copy of this Notice

\_\_\_\_\_

Property Owner or Authorized Representative

\_\_\_\_\_

Date

# Permit Extension Act of 2008 Extension

In a letter dated January 25, 2010 Director Wilk wrote:

Dear Construction Official:

On January 18, 2010, former Governor Jon S. Corzine signed a bill into law to extend the expiration date of certain permits under the "Permit Extension Act of 2008," P.L. 2008, c.78, by an additional two and a half years. Under this new law, P.L. 2009, c. 336, only the dates have changed. All of the other terms and conditions of the Permit Extension Act remain as they were. Below please find updated guidance on the application of the Permit Extension Act which has been revised to reflect the new expiration dates.

As code officials, you will continue to deal with this law on two levels: its impact on permits issued under the UCC and its impact on prior approvals. The Act stops the clock on the running of approvals during the "extension period," which is now defined as January 1, 2007 through December 31, 2012. This means that any UCC permit that was valid as of January 1, 2007 will still be valid on December 31, 2012. On December 31, 2012, when the clock starts again, the permit is valid for an additional six months or for the time that would have remained on January 1, 2007, **whichever is shorter**. Any permit issued **during** the extension period (between January 1, 2007 and December 31, 2012) will be valid until June 30, 2013 (six months beyond the end of the extension period,) or until the date when it would have expired if the Permit Extension Act had not been passed, **whichever is longer**. (Some examples of how to apply the Permit Extension Act to UCC permits are enclosed.)

There continues to be an exclusion in the Act for permits issued for projects in environmentally sensitive areas. To determine whether your municipality or any portion of your municipality is an "environmentally sensitive area" as that term is defined in the Act, please refer to the enclosed attachment.

In order to determine whether a prior approval qualifies for extension under this Act, construction officials should check with the agencies and officials responsible for issuing those prior approvals to make sure that those prior approvals remain in effect. A list of the approvals included and of those excluded by the Act is enclosed.

*Extension -continued at right*

*Ordinary Maintenance*

*continued from left*

In those cases where plan review was done by DCA, any plan release that was valid on or after January 1, 2007 may be used to support issuance of a permit through June 30, 2013. Once again, before issuing a permit, it is necessary to check with the agencies or officials involved to ensure that any required prior approvals remain valid.

Information, including the full text of the Act, is posted on the Division's website at [www.nj.gov/dca/divisions/codes](http://www.nj.gov/dca/divisions/codes) for your use. Should you have any questions about the application of the Permit Extension Act, please feel free to call the Code Assistance Unit at (609) 984-7607.

Sincerely,

Cynthia A. Wilk, Director  
Division of Codes and Standards

- Attachments: Definition of "Environmentally Sensitive Area"
- Examples of Application to Permits Issued under the UCC
- List of permits included and excluded

## Permit Extension Act of 2008 - Definition of "Environmentally Sensitive Area"

"Environmentally sensitive areas" include areas designated in the State Development and Redevelopment Plan as Planning Area 4B (Rural/Environmentally Sensitive), Planning Area 5 (Environmentally Sensitive), or a critical environmental site (Plan can be viewed at [www.nj.gov/dca/divisions/osg/plan/stateplan.shtml](http://www.nj.gov/dca/divisions/osg/plan/stateplan.shtml)); the Highlands Region (excluding any area designated for growth in the Highlands regional master plan adopted by the Highlands Water Protection and Planning Council) (Plan can be viewed at <http://www.nj.gov/njhighlands/master>), and the Pinelands Area as per N.J.A.C. 13:18A-11 (excluding any growth area designated in the comprehensive management plan prepared and adopted by the Pinelands Commission, [www.nj.gov/pinelands/images/pdf%20files/pinelandsprotectionact1.pdf](http://www.nj.gov/pinelands/images/pdf%20files/pinelandsprotectionact1.pdf)).

## Permit Extension Act of 2008 - Examples of Applying the Act to UCC Permits

The Permit extension Act extends all permits that were open and valid as of January 1, 2007. Under the UCC rules, a construction permit lapses if (1) no work is done for a year or (2) work, having been started, is discontinued for six months. (See N.J.A.C. 5:23-2.16(b)) The following are some examples of how certain scenarios would be affected by the Permit Extension Act:

### Examples:

1. Construction permit was obtained prior to January 1, 2006 and no work was done. The permit has lapsed and is not revived by the Permit Extension Act because it was not a valid, open permit on January 1, 2007.
2. Construction permit was obtained on April 1, 2006 and no work was done. The permit was deemed to have lapsed as of April 1, 2007. However, the permit is now deemed to have been revived by the passage of the Permit Extension Act. Since it had been valid for three more months as of January 1, 2007, it will continue to be valid for three more months as of July 1, 2010, and its new expiration date, if it is not acted upon, will be October 1, 2010.
3. Construction permit was obtained on October 1, 2006 and no work was done. The permit was valid for nine more months as of January 1, 2007 and is now deemed to have been revived, and to continue to be valid as of July 1, 2010. However, since a permit that is only valid because it was extended by the Permit Extension Act can only remain valid for six months following the end of the extension period, the permit would only be valid for six more months, and would expire on January 1, 2011, if not used by then.
4. Construction permit is obtained between January 1, 2007 and January 1, 2010. Though the time would not begin to run until July 1, 2010, the permit would expire on January 1, 2011, since the Permit Extension Act does not allow any extensions beyond January 1, 2011 unless the permit would have continued in existence beyond that date had the Permit Extension Act not been adopted.
5. Construction permit is obtained after January 1, 2010. Since the permit is valid for a year, it is unaffected by the January 1, 2011 cut-off date and expires one year from the date of issuance, just as it would if the Permit Extension Act had not been adopted.

## Permit Extension Act of 2008 - List of Permits and Approvals Included and Excluded

### ***The law specifically includes UCC permits and includes the following:***

- Any approval of a soil erosion and sediment control plan granted by a local soil conservation district,
- Any waterfront development permit,
- Any permit issued pursuant to "The Wetlands Act of 1970,"
- Any permit issued pursuant to the "Freshwater Wetlands Protection Act,"
- Any approval of an application for development granted by the Delaware and Raritan Canal Commission,
- Any permit issued by the New Jersey Meadowlands Commission,
- Any approval of an application for development granted by the Pinelands Commission and determination of municipal and county plan conformance pursuant to the "Pinelands Protection Act,"
- Any permit issued or center designations made pursuant to the "Coastal Area Facility Review Act,"
- Any septic approval,
- Any highway access permit or right-of-way permit granted by the Department of Transportation,
- Any approval granted by a sewerage authority\*,
- Any approval granted by a municipal utilities authority,
- Any approval issued by a county planning board,
- Any preliminary and final approval granted in connection with an application for development pursuant to the "Municipal Land Use Law,"
- Any plan endorsement and center designations approved pursuant to the "State Planning Act,"
- Any permit or certification issued pursuant to the "Water Supply Management Act,"
- Any permit granted authorizing the drilling of a well, exemption from a sewerage connection ban granted\*, wastewater management plan approved, and pollution discharge elimination system permit pursuant to the "Water Pollution Control Act,"
- Any certification granted pursuant to "The Realty Improvement Sewerage and Facilities Act,"
- Any certification or approval of water and sewerage facilities for 50 or more units granted pursuant to P.L.1971, c.386,
- Any certification issued and water quality management plan approved pursuant to the

*See Included and Excluded -page 15*



**Included and Excluded** *continued from page 14*

"Water Quality Planning Act,"

- Any approval granted pursuant to the "Safe Drinking Water Act,"
- Any permit issued pursuant to the "Flood Hazard Area Control Act," P.L.1962.

\*Note: The continuation of an approval for connection to a sanitary sewer is contingent on the availability of sufficient capacity.

**The law specifically excludes the following:**

- Any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or any permit or approval for which the expiration is determined under Federal law,
- Any permit or approval issued pursuant to the "Pinelands Protection Act," if the extension would result in a violation of federal law, or any State rule or regulation requiring Federal approval,

*See Included and Excluded –continued at right*

**Included and Excluded** *continued from left*

- Any permit or approval issued within an environmentally sensitive area;
- Any permit or approval within an environmentally sensitive area issued pursuant to the "Highlands Water Protection and Planning Act,"
- Any permit or approval issued by the Department of Transportation other than a right-of-way permit or a highway access permit,
- Any permit or approval issued pursuant to the "Flood Hazard Area Control Act," except where work has commenced in any phase or section of the development, on any site improvement or on any buildings or structures, and
- Any coastal center designated pursuant to the "Coastal Area Facility Review Act," that as of March 15, 2007 (a) had not submitted an application for plan endorsement to the State Planning Commission, and (b) was not in compliance with the provisions of the Coastal

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