

# 57 N.J.R. 1765(a)

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## RULE PROPOSALS

### Reporter

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### ► Interested Persons Statement

### Agency

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COMMUNITY AFFAIRS > DIVISION OF FIRE SAFETY

### Administrative Code Citation

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**Proposed Amendments:** N.J.A.C. 5:71-1.4, 2.2, 2.3, 2.6, 2.10, 3.2, and 3.3

**Proposed Recodifications with Amendments:** N.J.A.C. 5:71-4.1 through 4.11 as 5:73-20.1 through 20.11, respectively

**Proposed Repeals:** N.J.A.C. 5:71-4.12 and 4.13

### Text

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#### Fire Code Enforcement

Authorized By: Jacquelyn A. Suárez, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-25d, 198, and 219.

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

Proposal Number: PRN 2025-102.

Submit written comments by October 17, 2025, to:

Dominic Giova  
Department of Community Affairs  
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Email: [Dominic.Giova@dca.nj.gov](mailto:Dominic.Giova@dca.nj.gov)  
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The agency proposal follows:

## **Summary**

The proposed modifications to N.J.A.C. 5:71 stem from the authority of the Uniform Fire Safety Act (P.L. 1983, c. 383, N.J.S.A. 52:27D-192 et seq., specifically 52:27D-198 and 52:27D-219) and of the act that establishes a Division of Fire Safety in the Department of Community Affairs (Department) (P.L. 1983, c. 382, amended at P.L. 1993, c. 218; N.J.S.A. 52:27D-25a et seq., specifically 52:27D-25d, and further amended at P.L. 1995, c. 266; N.J.S.A. 52:27D-25a et seq., specifically 52:27D-25i, j, k, and m), which have been adopted to ensure public safety and welfare. In accordance with N.J.S.A. 52:27D-198, this proposed rulemaking has been made in consultation with the Fire Safety Commission through its Uniform Fire Safety Act (Codes) Advisory Council.

The impact of this rulemaking will primarily be realized by present and future fire officials, as the majority of the proposed rulemaking effectuates the legislation requiring the officials to obtain a license, in lieu of a certification, to practice their occupation. However, the proposed rulemaking that would permit a municipality to enter into a shared services agreement for fire code enforcement will impact municipalities and municipal officials across the State.

As the Department has provided for a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5. A section-by-section description of the proposed amendments follows.

## **Subchapter 1. General Provisions**

1. At N.J.A.C. 5:71-1.4(a), the Department proposes to correct the spelling of the term "Fire Marshal" and "County Fire Marshal." The proposed amendments also remove references to the "Board of Chosen Freeholders" and replace them with "Board of County Commissioners." Additionally, amendments are proposed to include the replacement of all terms equivalent to "certification" with terms equivalent to "licensure." These amendments are proposed in order to comply with the statutory change at N.J.S.A. 52:27D-203, amended pursuant to P.L. 2025, c. 19, which, among other items, converted all fire inspectors and fire officials from certified to licensed professionals.

## **Subchapter 2. Enforcing Agencies; Establishment and Responsibilities**

2. At N.J.A.C. 5:71-2.2(b), the Department proposes to delete subparagraphs (b)1i and (b)2iv, which conflict with the enabling statute. Specifically, N.J.S.A. 52:27D-213.b states that buildings, structures, and premises owned or operated by the State, its agencies, departments, or instrumentalities, or interstate agencies shall be inspected exclusively by the Department of Community Affairs. Local and county enforcing agencies lack the statutory authority needed to enforce the Fire Code against the State, its agencies, departments, instrumentalities, or interstate agencies. Therefore, the language that otherwise allowed a local enforcing agency to inspect State-owned property has been proposed for deletion.

3. At N.J.A.C. 5:71-2.3(a), the Department proposes to clarify existing rules whereby jurisdictions engaged in a shared service agreement with another local enforcing agency are subject to the approval of the Division of Fire Safety (Division) and must follow all fire prevention ordinances of the designated local enforcing agency.

4. At N.J.A.C. 5:71-2.6(a), the Department proposes to clarify existing language to reduce ambiguity surrounding the collection of registration fees.

## **Subchapter 3. Organization, Administration, and Enforcement**

5. At N.J.A.C. 5:71-3.2 and 3.3, the Department proposes to add language clarifying that the governing body of the county, municipality, fire districts, or fire departments, as applicable, are responsible for ensuring that the local enforcing agency

has an adequate number of inspectors. Additionally, amendments are proposed to include the replacement of all terms equivalent to "certification" with terms equivalent to "licensure." These amendments are proposed to comply with the statutory change at N.J.S.A. 52:27D-203, as amended at P.L. 2025, c. 19, which, among other items, converted all fire inspectors and fire officials from certified to licensed professionals.

#### **Subchapter 4. Certification of Fire Inspectors and Fire Officials**

6. The Department proposes to recodify with technical amendments N.J.A.C. 5:71-4.1 through 4.11 as N.J.A.C. 5:73-20.1 through 20.11, respectively. This will consolidate all fire service training requirements into a single chapter, thus simplifying the rules.

7. The Department proposes to repeal N.J.A.C. 5:71-4.12 and 4.13, as they are already covered in the destination of the recodification at N.J.A.C. 5:73.

#### **Social Impact**

The State Fire Prevention Code was developed and implemented to promote fire safety throughout New Jersey and to protect the public from the danger of fire or explosion. The training and education standards set forth at N.J.A.C. 5:71-4, Certification of Fire Officials, help ensure that fire inspectors and fire officials are adequately trained, experienced, and credentialed to national standards and training programs. Arguably, better training will not only produce better fire inspectors and fire officials, but ensure more thorough inspections, which will benefit the public at large. The benefit of establishing uniform Statewide credentialing programs is to promote code enforcement technical competency of fire inspectors and fire officials who enforce the Uniform Fire Code in local enforcing agencies, thereby safeguarding the lives and property of the citizens of New Jersey.

#### **Economic Impact**

The Department does not anticipate that the proposed amendments or repeals would have any economic impact.

#### **Federal Standards Statement**

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

#### **Jobs Impact**

The Department does not anticipate that any jobs would be created or lost as a result of the proposed amendments or repeals.

#### **Agriculture Industry Impact**

The Department does not anticipate that the proposed amendments or repeals would have any impact on the agriculture industry.

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#### **Regulatory Flexibility Statement**

The Department expects that these proposed amendments and repeals will not impose any added recordkeeping, reporting, or compliance requirements on small businesses, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Therefore, a regulatory flexibility analysis is not required.

#### **Housing Affordability Impact Analysis**



The Department does not anticipate that the proposed amendments or repeals would have any effect upon the cost or the supply of affordable housing, as the rulemaking concerns the training and credentialing of fire code enforcement personnel, and as such, would be highly unlikely to have any impact upon housing production costs or affordability.

### **Smart Growth Development Impact Analysis**

The proposed amendments and repeals concern only the training and credentialing of fire code enforcement personnel, and as such, would be most unlikely to have any impact upon housing production within Planning Areas 1 and 2, or within designated centers, pursuant to the State Development and Redevelopment Plan.

### **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 rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 5:71-4.12 and 4.13.

**Full text** of the proposed amendments and recodifications follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### CHAPTER 71

#### FIRE CODE ENFORCEMENT

#### SUBCHAPTER 1. GENERAL PROVISIONS

#### 5:71-1.4 Definitions

(a) As used in this chapter:

...

"County enforcing agency" means a county fire [marshall] **marshal** designated by a board of [chosen freeholders] **county commissioners** to enforce the Code.

...

"Fire [Inspector] **inspector**" means a person working under the direction of the fire official who is [certified] **licensed** by the Commissioner of the Department of Community Affairs and appointed or designated to enforce the Code by the appointing authority of a local enforcing agency.

"Fire [Official] **official**" means a person [certified] **licensed** by the Commissioner of the Department of Community Affairs and appointed or designated to direct the enforcement of the Code. This term shall also include ["Fire Marshall"] **"fire marshal"** where the fire official has been appointed pursuant to N.J.A.C. 5:71-3.2.

...

"Local enforcing agency" means a municipal agency, fire department, fire district, or county fire marshal authorized by municipal ordinance to enforce the act within a specific local jurisdiction; or where such authorization has not been granted by local ordinance, it means the Department of Community Affairs. "Local enforcing agency" shall also mean and include a county fire marshal authorized by ordinance or resolution of the board of [chosen freeholders] **county commissioners** to enforce the act in county facilities. With regard to enforcement of the act in premises owned or

maintained by the State of New Jersey or any of its boards, commissions, agencies, or authorities, "local enforcing agency" shall mean the Division.

...

## SUBCHAPTER 2. ENFORCING AGENCIES; ESTABLISHMENT AND RESPONSIBILITIES

### 5:71-2.2 Matters covered; jurisdictions; exceptions

(a) (No change.)

(b) Jurisdictional responsibilities for enforcing the Code are as follows:

1. A local enforcing agency, where established, shall be responsible for enforcement of the Code within its jurisdictional area for:

i. All [privately-owned] **privately owned** premises subject to the Code[, including, but not limited to, premises leased to but not maintained by the State, or any of its boards, commissions, agencies or authorities];

ii.-iii. (No change.)

2. County enforcing agencies, where established, shall be responsible for enforcement of the Code for:

i.-iii. (No change.)

[iv. All premises leased to but not maintained by the State of New Jersey or any of its boards, commissions, agencies or authorities within the jurisdictional area for which the county has been designated as the local enforcing agency.]

3.-4. (No change.)

(c) (No change.)

### 5:71-2.3 Local enforcing agencies; establishment

(a) Creation of a local agency shall be subject to the following:

1.-2. (No change.)

3. The governing body may designate as its local enforcing agency, a requesting fire department, fire district, or an available county agency. In the event that none of the entities enumerated are available for designation, the governing body may elect to create or designate a local enforcing agency within the municipality, **or enter into a shared services agreement with another local enforcing agency to provide fire code enforcement services**. If no agency is created or designated, the Division shall exercise jurisdiction in accordance with N.J.A.C. 5:71-2.2(b)3.

i. **All shared service agreements to provide fire code enforcement services shall be subject to approval by the Division.**

**(1) The Division may deny or revoke any shared services agreement if it finds the agreement insufficient to properly enforce the Code.**

ii. **When a governing body and a local enforcing agency enter a shared services agreement to enforce the Code in the governing body's jurisdiction, all previous fire prevention ordinances in that jurisdiction shall become void, except the ordinance designating the enforcing agency. The ordinances of the local enforcing agency shall**

become enforceable upon all shared service jurisdictions listed in the agreement, including fees and amendments to the Code.

4.-5. (No change.)

(b) (No change.)

(c) Creation of a county agency shall be subject to the following:

1. A county enforcing agency shall only be created by ordinance or resolution adopted by the [Board of Chosen Freeholders] **board of county commissioners** in a county with a duly authorized county fire marshal.

2.-3. (No change.)

5:71-2.6 Collection of and accounting for fees and penalties

(a) Collection of registration fees:

1. The Division shall annually bill for and take such steps as may be necessary to collect or provide for the collection of the annual registration fees provided for by the Code. No fee shall be assessed against [premises] **life hazard uses** owned by the [agency] **entity** enforcing the Code.

2. The Division shall remit 65 percent of the amount collected, unless indicated otherwise below, to the local enforcing agency established for the inspection of life hazard uses. This payment shall be disbursed by the end of the quarter next succeeding the one in which fees were collected.

i. No later than 30 days following the end of the calendar year (December 31), the local enforcing agency, **or other agency enforcing provisions of the Code**, shall forward to the Division a form verifying the status of all life hazard use, **non-life hazard use, and certificate of smoke alarm, carbon monoxide alarm, and secondary power source identification label compliance** inspections performed during the year. The agency shall utilize a Division-approved format which satisfies the following requirements:

[page=1767] (1) The form shall be electronically certified by both the fire official, **or official in charge of enforcing the provisions**, and the chief administrative officer of the municipality or the fire district, as the case may be; and

(2) The form shall detail the total number of life hazard uses, **non-life hazard uses, and certificates of smoke alarm, carbon monoxide alarm, and secondary power source identification label compliance**, specify the number of uses and number of inspections required annually, and indicate the number of inspections performed during the reporting period.

ii. (No change.)

iii. **In those cases where all non-life hazard use or certificate of smoke alarm, carbon monoxide alarm, and secondary power source identification label compliance inspections have not been completed in accordance with the local enforcing agency's duly adopted ordinance, the Division shall impose sanctions upon both the agency and official enforcing the provisions in accordance with N.J.A.C. 5:73-20.6.**

3.-4. (No change.)

(b)-(f) (No change.)

5:71-2.10 Departmental monitoring

(a) (No change.)



(b) When making a monitoring visit, the Division shall determine:

1. Whether the fire official and any inspectors are [certified] **licensed** in accordance with the requirements of [these regulations] **this chapter**;

2.-9. (No change.)

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

### SUBCHAPTER 3. ORGANIZATION, ADMINISTRATION, AND ENFORCEMENT

#### 5:71-3.2 Local enforcing agencies; organization

(a) The fire official shall be appointed in the manner provided for in the ordinance establishing the local enforcing agency. He or she shall serve as the chief administrator of the agency. He or she shall establish the day-to-day operating routines of the agency and shall coordinate the activities of any inspectors or other staff. He or she shall be [certified] **licensed** in accordance with N.J.A.C. [5:71-4] **5:73-20**.

(b) The **governing body of the county**, municipality, fire district, [and the] **or** fire department shall ensure that the enforcing agency has an adequate number of inspectors to complete all necessary inspections and review all permit applications and act on them in a timely manner, as well as sufficient staff to ensure that enforcement actions are taken in a timely manner when violations are found and not corrected. Any [inspectors] **person** engaged in the [inspection of life hazard uses] **enforcement of the Act** shall be [certified] **licensed** as specified [in] **at** N.J.A.C. [5:71-4] **5:73-20**.

(c)-(d) (No change.)

#### 5:71-3.3 Duties of fire officials and fire inspectors

(a) The fire official shall enforce the [code] **Code** and the regulations and shall:

1. Maintain [certification] **licensure** with the Division pursuant to N.J.A.C. [5:71-4] **5:73-20**;

2.-17. (No change.)

18. Ensure that any agency staff members requiring [certification] **licensure** have been [certified] **licensed**;

19.-26. (No change.)

(b) (No change.)

(c) The fire inspector shall enforce the Code and the regulations [under] **within** the direction of the fire official and shall:

1. Maintain [certification] **licensure** with the Division pursuant to N.J.A.C. [5:71-4] **5:73-20**;

2.-8. (No change.)

**(Agency Note:** N.J.A.C. 5:71-4 is proposed for recodification with amendments as N.J.A.C. 5:73-20.)

### CHAPTER 73

#### STANDARDS FOR FIRE SERVICE TRAINING AND CERTIFICATION

#### SUBCHAPTER [4.] **20**. CERTIFICATION OF FIRE OFFICIALS

[5:71-4.1] **5:73-20.1** (No change in text.)

[5:71-4.2] **5:73-20.2** Authority; hearings

(a) The following rules concern Office of Training and Certification:

1. (No change.)

2. The responsibilities of the Office, in addition to all others provided in this subchapter, are as follows:

i.-ii. (No change.)

iii. To suspend or revoke a certification provided for herein upon the establishment of cause as set forth [in] **at N.J.A.C. [5:71-4.6] 5:73-20.6.**

(b) The following rules concern hearings:

1. Any person aggrieved by any notice, action, ruling, or order of the Division, with respect to this subchapter, may have a right to a hearing before the Office of Administrative Law, conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1[-1.1 et seq]. The final decision in any such case shall be issued by the Commissioner.

2. (No change.)

[5:71-4.3] **5:73-20.3** (No change in text.)

[5:71-4.4] **5:73-20.4** Requirements for certification

(a) Any candidate for certification in Fire Code enforcement pursuant to this subchapter shall submit an application to the Office of Training and Certification in the Division of Fire Safety, accompanied by the required fee established at N.J.A.C. [5:71-4.7] **5:73-20.7.** The application shall include such information and documentation as the Office may require.

1. (No change.)

(b) Certification as a "fire inspector" shall be issued to any applicant who has successfully completed an educational program approved by the Division pursuant to N.J.A.C. [5:71-4.9] **5:73-20.9.**

1. (No change.)

(c) Certification as a "fire official" shall be issued to any applicant who holds a valid certification as a fire inspector issued by the Division pursuant to this section and has successfully completed an educational program approved by the Division pursuant to N.J.A.C. [5:71-4.9] **5:73-20.9.**

1. (No change.)

2. The applicant shall provide documentation indicating the successful completion of an examination as required [by] **pursuant to N.J.A.C. [5:71-4.10] 5:73-20.10.**

3. (No change.)

(d) The Division shall determine, by examination of the application and review of any supporting documents, including any evidence of experience, training, and/or education submitted, whether an applicant is qualified for the certification for which the application has been made.



1.-2. (No change.)

3. The Division may deny, or refuse to issue, a certification to an applicant upon proof that there has been any act or omission that would constitute grounds for revocation [under] **pursuant to N.J.A.C. [5:71-4.6] 5:73-20.6.**

[5:71-4.5] **5:73-20.5** Renewal of certification

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

(d) Where the holder of a certification has allowed the certification to lapse by failing to renew the certification as provided for [in] **at (a) above**, a new application and certification shall be required.

1.-2. (No change.)

3. Where the former certification has lapsed for a period exceeding six months, a new application shall be required in accordance with N.J.A.C. [5:71-4.4] **5:73-20.4.**

(e) After revocation of a certification upon any of the grounds set forth [in] **at N.J.A.C. [5:71-4.6] 5:73-20.6**, the Division may not renew or reinstate such certification; however, a person may file a new application for a certification with the Division. When it can be shown that all loss caused by the act or omission for which the certification was revoked has [page=1768] been fully satisfied, that the applicant has been legally rehabilitated, and that all conditions imposed by the decision of revocation have been complied with, the Division may issue a new certification. No new certification shall be issued if the cause for revocation was conviction of a crime of any degree which crime was in connection with Fire Code enforcement.

[5:71-4.6] **5:73-20.6** Revocation of certifications and alternative sanctions

(a) The following shall be deemed a violation of the Uniform Fire Safety Act subject to a penalty of not more than \$ 500.00 for each offense:

1.-2. (No change.)

3. To fail to notify the Division concerning a vacancy as required [by] **at N.J.A.C. [5:71-4.3] 5:73-20.3**; or

4. (No change.)

(b)-(f) (No change.)

(g) Any person aggrieved by any action of the Department pursuant to this chapter shall be entitled to a hearing before the Office of Administrative Law in accordance with the Administrative Procedure Act, as provided [in] **for at N.J.A.C. [5:71-4.2] 5:73-20.2.**

1. (No change.)

[5:71-4.7] **5:73-20.7** (No change in text.)

[5:71-4.8] **5:73-20.8** Standards for educational programs

To carry out their responsibilities, Code enforcement officials must be fully knowledgeable about Fire Code standards and be adequately prepared to administer and enforce them properly. Fire Code enforcement education programs must meet certain standards to ensure Code enforcement officials have the necessary technical and administrative training to effectively enforce the Uniform Fire Code at the local level. This section and N.J.A.C. [5:71-4.9] **5:73-20.9** adopt[s] standards for Fire Code enforcement official education programs. Procedures governing the approval of such educational programs are set forth [in] **at N.J.A.C. [5:71-4.10] 5:73-20.10.**

[5:71-4.9] **5:73-20.9** Organizational, administrative, and operational functions of the Fire Code enforcement educational programs

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

(e) Faculty members shall be competent in the field and have contacts with Fire Code enforcement environments and other sources so their teaching and research are current and relevant.

1. (No change.)

2. The institution, recognizing that an appropriate faculty is one of the major determinants of the quality of its education program, shall make provision for the use of the part-timer or adjunct faculty.

i. No individual who has ever had a license suspended for a period of six months or more or has ever had a license or certification revoked for any reason set forth [in] **at** N.J.A.C. 5:23-5.11 or [N.J.A.C. 5:71-4.6] **5:73-20.6** shall be eligible to instruct Fire Code enforcement educational programs;

ii.-iii. (No change.)

3.-4. (No change.)

(f) The course of study for Fire Inspector certification shall consist of a planned pattern of instruction and experiences designed to meet the following standards. The course shall provide at least 90 contact hours of instruction not including examination and support time and it shall ensure by examination technical competence in the following subject areas:

1.-13. (No change.)

14. Module 14: Retrofit Code:

i.-vi. (No change.)

vii. Specific [Subchapter 4] requirements **at N.J.A.C. 5:70-4;**

15.-20. (No change.)

(g) (No change.)

[5:71-4.10] **5:73-20.10** Procedure for applying for approval of educational programs

(a) Any eligible institution or organization may submit any course for approval as an educational program required [by] **pursuant to** N.J.A.C. [5:71-4.8] **5:73-20.8**. The application shall be in letter form, be submitted at least 60 days prior to the first [class session] **class-session** of the course and [contain] **include** all the information specified below.

1. A course that provides content and contact hours required [by] **pursuant to** N.J.A.C. [5:71-4.9(f)] **5:73-20.9(f)** or (g) will be acceptable even if it is part of a longer course of study that covers additional material.

(b) Each application shall be submitted in the name of the institution or organization by a person authorized to do so. It shall [contain] **include**, at a minimum, the following information:

1.-7. (No change.)

8. A statement that the institution or organization will conduct the course or program in accordance with N.J.A.C. [5:71-4.8 herein] **5:73-20.8** and will maintain such records as are therein required; and

9. (No change.)

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

(g) Any institution or organization may submit an application for approval for a course administered after January 1, 1978, so that certification applications may receive credit for it. Any such application shall be judged against the standards for programs established at N.J.A.C. [5:71-4.8] **5:73-20.8**.

[5:71-4.11] **5:73-20.11** (No change in text.)

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