

have "Plumbing requirements under the scope of this subcode shall be regulated by the plumbing subcode, N.J.A.C. 5:23-3.15." inserted.

Section P2904 shall be amended as follows:

- (1) (No change.)
- (2) In Section P2904.2.3, Freezing areas, "Section P2603.5" shall be deleted and "the plumbing subcode (N.J.A.C. 5:23-3.15)" shall be inserted.
- (3) (No change.)
- 22. Chapters 30 through 33 shall be deleted in their entirety and "Plumbing requirements under the scope of this subcode shall be regulated by the plumbing subcode, N.J.A.C. 5:23-3.15." shall be inserted.
- 23. Chapters 34 through 43 shall be deleted in their entirety and "Electrical requirements under the scope of this subcode shall be regulated by the electrical subcode, N.J.A.C. 5:23-3.16." shall be inserted.
- 24. The Appendices shall be amended as follows:
  - i. (No change.)
  - ii. Appendix D, Recommended Procedure for Safety Inspection of an Existing Appliance Installation; Appendix E, Manufactured Housing Used as Dwellings; Appendix F, Radon Control Methods; and Appendix G, Piping Standards for Various Applications, are deleted in their entirety.
  - iii. (No change.)
  - iv. Appendix I, Private Sewage Disposal; Appendix J, Existing Buildings and Structures; Appendix L, Permit Fees; Appendix M, Home Day Care - R-3 Occupancy; Appendix N, Venting Methods; Appendix O, Automatic Vehicular Gates; and Appendix P, Sizing of Water Piping Systems, shall be deleted.
  - v. Appendix Q, Tiny Houses; Appendix R, Light Straw-Clay Construction; and Appendix S, Strawbale Construction, shall be adopted as part of this subcode.
  - vi. Appendix T, Solar-Ready Provisions— Detached One- And Two-Family Dwellings, Multiple Single-Family Dwellings (Townhouses), shall be deleted in their entirety.

5:23-3.22 Fuel gas subcode

(a) Rules concerning the fuel gas subcode adopted are as follows:

1. Pursuant to authority of P.L. 1975, c. 217, the Commissioner hereby adopts the model code of the International Code Council, Inc., known as the International Fuel Gas Code/2018. This code is hereby adopted by reference as the fuel gas subcode for the State of New Jersey subject to the modifications in (b) below.

- i. (No change.)
- ii. The International Fuel Gas Code/2018 may be known and cited as the "fuel gas subcode."

2.-3. (No change.)

(b) The following chapters, sections or pages of the International Fuel Gas Code/2018 shall be amended as follows:

- 1. (No change.)
- 2. Chapter 2 of the fuel gas subcode, entitled "Definitions," is amended as follows:
  - i.-ii. (No change.)
  - iii. The definition of the term "approved" is deleted and the following shall be inserted: "Approved refers to approval by the appropriate subcode official or other authority having jurisdiction in accordance with the regulations."
  - iv.-viii. (No change.)
  - 3.-6. (No change.)
- 7. Chapter 8 of the fuel gas code, entitled "Referenced Standards," shall be amended as follows:
  - 1. Under the heading "ICC," amend the following titles:
    - (1) Delete "IPC—18, International Plumbing Code."
  - 8.-9. (No change.)

(a)

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**

**New Jersey Housing and Mortgage Finance Agency Prepayment Rules**

**Adopted Amendment: N.J.A.C. 5:80-5.10**

Proposed: March 18, 2019, at 51 N.J.R. 394(a).  
 Adopted: July 26, 2019, by the New Jersey Housing and Mortgage Finance Agency, Charles A. Richman, Executive Director.  
 Filed: August 3, 2019, as R.2019 d.093, **without change**.  
 Authority: N.J.S.A. 55:14K-5.g.  
 Effective Date: September 3, 2019.  
 Expiration Date: September 14, 2024.

**Summary of Public Comment and Agency Response:**  
 No comments were received.

**Federal Standards Statement**

A Federal standards analysis is not required because the adopted amendment does not contain any standards or requirements that exceed the standards or requirements imposed by applicable Federal law.

Full text of the adoption follows:

SUBCHAPTER 5. TRANSFER OF OWNERSHIP INTERESTS

5:80-5.10 Prepayment

- (a) (No change.)
- (b) Prepayment of the Agency mortgage loan will be permitted, with the prior written approval of the Agency's Executive Director, Deputy Executive Director, Chief Financial Officer, or Chief of Legal and Regulatory Affairs, provided all of the following conditions are met:
  - 1. Sponsors of projects may prepay the mortgage at any time following the 15-year period following the date of the mortgage closing. However, any such prepayment shall be conditioned upon the housing sponsor's agreement that: the Agency policies on tax, insurance, and repair and replacement reserves; the provisions of N.J.S.A. 55:14K-7b; and the statutory provisions at N.J.S.A. 55:14K-1 et seq., and the corresponding rules under this chapter regarding tenant income eligibility, tenant selection, rent increases, certification/recertification of income, affirmative fair housing marketing, transfer of ownership interests, and return on equity (except as modified by (b)7 below) shall continue to be applicable in their entirety to the sponsor, project and tenants residing therein until the original expiration date of the original mortgage loan. Such prepayment shall also be conditioned upon the agreement of the sponsor to pay the servicing fees and charges currently being paid by the sponsor under the mortgage documents, through the remainder of the original mortgage term, in order to cover the administrative costs of the Agency in monitoring the statutory and regulatory controls that will continue to apply to the project. The Agency may require housing sponsors to execute a deed restriction or other appropriate agreement upon prepayment whereby the sponsor acknowledges the continuing statutory and regulatory control of the Agency and its obligation to pay fees and charges determined by the Agency.
    - 2. Any repairs or improvements pursuant to N.J.A.C. 5:80-5.4(d) must be made prior to prepayment or an amount sufficient to fund such repairs or improvements must be paid into an Agency-controlled escrow account or Agency-approved construction funding account upon prepayment.
  - 3.-4. (No change.)
  - 5. After prepayment, in implementing the provisions of N.J.S.A. 55:14K-7.b, the Agency will require the following:
    - i.-iii. (No change.)
  - 6.-7. (No change.)
  - 8. Additional mortgage financing placed on the project upon prepayment, or otherwise during the Agency's continued statutory and regulatory oversight period pursuant to (b)1 above, shall be subject to Agency staff's prior determination of continued project financial feasibility throughout the remainder of such period.

(c) Notwithstanding (b) above, prepayment shall not be approved or permitted in cases that would:

1.-2. (No change.)

3. Reduce or terminate subsidies to the project such as HUD Section 8 or Section 236, unless a reduction or termination is imposed by HUD or other issuing authority and results in a renewal of the subsidy or in a new subsidy to the project that will be sufficient to maintain the financial viability of the project through the end of the original mortgage term.

(d)-(f) (No change.)

(g) All prepayment requests shall be accompanied by a non-refundable processing fee of \$5,000 payable to the Agency, except that such prepayment processing fee shall not be applicable where the prepayment is to occur simultaneously with a transfer of ownership necessitating a full review as set forth in this subchapter.

(a)

**NEW JERSEY HOUSING AND MORTGAGE FINANCE AGENCY**

**New Jersey Housing and Mortgage Finance Agency Certification and Recertification of Income Rules Adopted Amendments: N.J.A.C. 5:80-20.2 through 20.7 and 20.9**

Proposed: March 18, 2019, at 51 N.J.R. 396(a).  
 Adopted: July 26, 2019, by the New Jersey Housing and Mortgage Finance Agency, Charles A. Richman, Executive Director.  
 Filed: August 3, 2019, as R.2019 d.094, **without change**.  
 Authority: N.J.S.A. 55:14K-5.g.  
 Effective Date: September 3, 2019.  
 Expiration Date: September 14, 2024.

**Summary of Public Comments and Agency Responses:**

The New Jersey Housing and Mortgage Finance Agency ("HMFA" or "Agency") received comments from the following persons:

1. Carolee Wineburgh, Housing Manager, Cooks Pond Senior Housing, Denville, NJ; and
2. Tanya Van Order, Deputy Director, Madison Affordable Housing Corporation, Madison, NJ.

A summary of the comments received and the Agency responses follows (commenters are identified by the numbers before their names above).

1. COMMENT: The commenter is "vehemently opposed" to the amendment at N.J.A.C. 5:80-20.3(d) that would "allow the [housing] sponsor to approve the [tenant] move-in without prior review or approval by the Agency." The commenter states that she has been a housing manager for almost 20 years and relies upon HMFA review to assure compliance of applicant files before tenant move-ins, observing that she oversees applicants with numerous assets and sources of income that complicate the income calculation, especially where some applicants are "very close to the income maximum" and a "miscalculation" might make them ineligible. (1)

RESPONSE: As stated in the Social Impact of the notice of proposal, the amendment at N.J.A.C. 5:80-20.3(d) was proposed at the behest of a number of project sponsors, who believe the existing requirement of Agency review and approval prior to tenant move-ins is time-consuming and deprives the sponsors of rental income as units remain vacant pending such review. The subject has been discussed and vetted with members of the New Jersey Affordable Housing Developer Council, Inc. (NJAHDC), an affordable housing industry trade group, whose members raised the issue that the current system of Agency pre-approval "delays lease-up, costs money, [and] presents a hardship to applicants in need of housing." The Agency acknowledges that there may be a trade-off in oversight where pre-approval by the Agency is eliminated in order to expedite tenant move-ins. However, the Agency notes that its role — although once necessary — has become, in the words of the NJAHDC, "redundant" because applicant files are now reviewed by managing agents and investors; additionally, third-party accountants and other practitioners are

available to perform reviews and analysis. Both the Agency and what is believed to be the vast majority of project sponsors (judging by the fact that only two adverse comments were received) believe the gain in tenant move-in times far outweighs the loss of preliminary review by the Agency. Project developers have requested this procedure and they, their managing agents, investors, and outside practitioners are experienced in performing the reviews.

With respect to the commenter's expressed concern that a "miscalculation" might lead to tenant ineligibility, the Agency notes that it is the responsibility of the project owner to ensure compliance with applicable requirements. The Agency suggests that if owners desire a pre-review or audit of applicant files, there are, as mentioned above, many professional firms that perform such functions on behalf of project owners and managers. Additionally, the Agency hosts bi-annual tax credit compliance monitoring training to aid property management staff in performing tenant income calculations and maintaining compliance with IRS regulations. Based on the various supports available to owners and the processes already in place, the Agency believes that another level of pre-review by Agency staff is no longer warranted.

2. COMMENT: In expressing opposition to the proposed amendment at N.J.A.C. 5:80-20.3(d), the commenter states that the issue of "non-compliance" for Federal low-income housing tax credits is more of a concern than any fee that might be imposed on project sponsors. (1)

3. COMMENT: The commenter states that "[i]f [she] understand[s] correctly, [the] amendment would allow [low income housing tax credit] property sponsors to move new tenants into tax credit units prior to review and approval by [the Agency]." (2)

RESPONSE TO COMMENTS 2 AND 3: The Agency believes the comment is inapplicable to the proposed amendment to N.J.A.C. 5:80-20.3(d) because this amendment applies only to Agency-financed projects. It does not have any effect on tax-credit projects, which are addressed in a completely different area of the rules entitled Qualified Allocation Plan (QAP), at N.J.A.C. 5:80-33. Any current Agency review of applicants for admission to tax-credit units occurs only because those units are in Agency-financed projects; the Agency's review and pre-approval is not undertaken for projects financed solely by low-income housing tax credits. Also, N.J.A.C. 5:80-33.1(f) (part of the QAP) states in part: "Compliance with the requirements of the [Internal Revenue] Code is the sole responsibility of the owner of the building for which the credit is allowable. [The Agency] makes no representations to the owner or anyone else as to compliance with the Code, Federal regulations issued under the Code, or any other law or regulations governing Low Income Housing Tax Credits ..." Thus, the project owner/managing agent, not the Agency, is responsible for ensuring that only eligible tenants are admitted to tax credit units under existing rules.

4. COMMENT: The commenter expresses concern as to how tax credit syndicators (investors) will react to the amendments, anticipating that they are the ones who stand to lose out on their investments if an ineligible family is "inadvertently" moved into a tax credit unit. The commenter alludes to the "difficult[y]" of evicting tenants in New Jersey. (2)

RESPONSE: As noted in the Response to Comments 2 and 3, the proposed amendments do not affect the review of applicants for tenancy in tax credit units, which are currently — and have been since the advent of the tax credit program — the responsibility of project sponsors and/or managing agents. It is the Agency's understanding that most, if not all, syndicators and/or investors separately review tenant eligibility because of the risk of tax credit recapture. No comments were received from syndicators nor to the Agency's knowledge have syndicators expressed any discontent with the present system as applied to the tax credit program.

**Federal Standards Statement**

A Federal standards analysis is not required because the adopted amendments do not contain any standards or requirements that exceed the standards or requirements imposed by applicable Federal law.