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**FIRE PREVENTION AND BUILDING SAFETY COMMISSION**  
**Department of Homeland Security****Written Interpretation of the State Building Commissioner****Interpretation #:** CEB-2022-19-[675 IAC 12-4-9\(a\)](#)**Building or Fire Safety Law Interpreted**

[675 IAC 12-4-9 Maintenance of buildings and structures](#), Sec. 9. (a) All buildings and structures, and any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication, or fire or explosion systems, and all parts thereof, shall be maintained in conformance with the applicable rules of the commission, or applicable rules of its predecessor agencies, in effect when constructed, installed, or altered.

**Issue**

Whether the replacement of an existing nonrated kitchen ceiling in an A-2 occupancy creates a requirement to provide a new occupancy separation between that A-2 occupancy and the existing R occupancy story above.

**Interpretation of the State Building Commissioner**

No, replacement of an existing nonrated kitchen ceiling in an A-2 occupancy does not create a requirement to provide a new occupancy separation between the A-2 occupancy and the existing R occupancy in the story above, provided(a) there is no change of occupancy group or subgroup of either the kitchen or the above story as part of this project; and (b) the lack of an occupancy separation between the two spaces was a compliant condition under the rules in effect when the building was constructed or when its occupancy group last changed, whichever is more recent.

**Rationale**

[675 IAC 12](#) contains several suites of rules that together regulate buildings and their component systems (for brevity hereinafter referred to collectively as *structures*), and in doing so, differentiate among these rules: (1) those that apply to existing structures maintaining their occupancy classifications; (2) those that apply to existing structures changing occupancy classifications; and (3) those that apply to new structures.

The first of these categories is represented by [675 IAC 12-4-9\(a\)](#), which states, in essence, that existing structures must be maintained in a state compliant with either the current rules of the commission, or with those rules in place at the time of the original work. If we may assume a structure complied with its original rules, and there is no change of occupancy classification taking place, then the structure is not compelled to be brought into compliance with new rules as they are adopted. Only new construction is required to comply with current rules.

In this instance, an existing kitchen ceiling was removed and replaced. The question of whether this would be considered simple like-for-like maintenance work or new construction regulated by the current rules is dependent on the nature of the design and how similar it is to the prior installation. Certainly, simple replacement of individual lay-in tiles and spot replacement of grid system components can be considered maintenance, but wholesale removal and replacement is questionable, and would probably depend on how precisely the new ceiling duplicates the original ceiling's design. Those distinctions cannot be made by this office but must be left to the discretion of the local building official.

However, even when a ceiling is determined to be new construction subject to current rules, care must be exercised to ensure the relevant rules are applied.

First, it must be stated that while a laudable intent, there is no general regulation that specifically states existing structures must be made more safe incrementally as new work is conducted within them. To the extent this effect occurs, it is the result of requiring all new work to comply with the current rules *for that work* and that work only. If we assume the ceiling replacement in this case is extensive enough to be considered new construction rather than maintenance, the ceiling's design and construction must meet the current rules for ceilings. That includes criteria such as minimum height, finish flame spread maximums, and the like. *Nowhere in these regulations is there a general requirement for a ceiling system to carry a fire-resistance rating.*

The need for fire-resistance ratings, whether for occupancy separations or other purposes, is a general building planning and design requirement that applies to vertical and horizontal assemblies treated as whole entities, and not necessarily as component parts. The necessary fire-resistance rating of the assembly can typically be achieved in a variety of ways, the choice of which is left to the designer. Since the need for a fire-resistance rating

is a requirement that applies to an entire assembly, the need for an occupancy separation in this case would be driven only by one of the following circumstances:

- A change of occupancy group occurs as part of the project;
- The removed ceiling carried a required fire-resistance rating; or
- The proposed work includes removal and replacement of the existing floor/ceiling assembly from bottom to top, in locations where the separation is required.

*Posted: 11/02/2022 by Legislative Services Agency*

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