

## STATE BUILDING CODE INTERPRETATION NO. I-18-08

May 20, 2009

The following is being offered in response to your letter in which you seek a formal interpretation. The questions apply to Sections 3409 and 3406, of the 2003 International Building Code portion of the 2005 State Building Code.

### Question 1:

“Section 3409-Accessibility for Existing Buildings. If an existing non-accessible building that has a tenant listed as mercantile use moves out of the structure and a new mercantile use moves into the same empty space, would the new mercantile use have to comply with article 3409.3, change of occupancy, items 1 through 6, even without any planned alterations to the existing rental space?”

### Answer 1:

An existing structure which has a change of occupancy may change the level of hazards characteristic of that occupancy. Section 309 addresses typical Mercantile Group M occupancies and the level of hazard category shall be determined in accordance with Section 3406.1.1.

If the mercantile use tenant was a drug store and it moves out, then a new drug store tenant moves in selling the same level of inherent hazards, then compliance with Section 3409.3 would not be required.

If the mercantile use tenant was a drug store and it moves out, then a new motor fuel-dispensing facility moves in, then compliance with Section 3409.3 would be required.

### Question 2:

“Section 3406-Change of Occupancy. Would the new tenant as described above, need to obtain a new Certificate of Occupancy, as mentioned in article 3406.2, in order to comply with Section 3406.1 conformance?”

### Answer 2:

Issuance of a Certificate of Occupancy per Section 3406.2 would not be required if the mercantile occupancy is the same hazard category level.

Issuance of a Certificate of Occupancy per Section 3406.2 would be required when there is change in the level of hazard category.