



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

February 18, 2021

Carrie Hollis
Office of State Budget and Management
Sent via email to Carrie.Hollis@osbm.nc.gov

Re: Residential Code, N1101.13(R401.2)

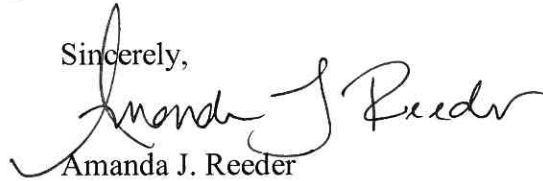
Ms. Hollis:

At its meeting this morning, the Rules Review Commission voted pursuant to G.S. 150B-21.9 to ask the Office of State Budget and Management to determine if the above-referenced Rule has a substantial economic impact and therefore require a fiscal note. A response to this request pursuant to G.S. 150B-21.9 will assist the Commission in determining whether the agency adopted the Rule in accordance with the Administrative Procedure Act.

This Rule will remain under the Commission's review until after review by OSBM and subsequent action by the agency pursuant to G.S. 150B-21.12. The Commission is aware that there are multiple demands on your time, and respectfully requests a response as soon as you are able to do so.

Thank you for your assistance in this matter. Please let me know if I can be of any assistance or if you desire further information regarding the Commission's decision.

Sincerely,



Amanda J. Reeder
Commission Counsel

cc: Carl Martin, Rulemaking Coordinator

Enclosure Residential Code, N1101.13(R401.2)

Julian Mann, III, Director
Chief Administrative Law Judge

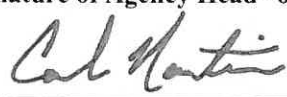
Fred G. Morrison, Jr.
Senior Administrative Law Judge

Linda T. Worth
Deputy Director

An Equal Employment Opportunity Employer

1711 New Hope Church Road, Raleigh, NC 27609
Telephone: (919) 431-3000 | Facsimile: (919) 431-3100
www.oah.nc.gov

SUBMISSION FOR PERMANENT RULE

| | |
|---|---|
| 1. Rule-Making Agency: NC Building Code Council | |
| 2. Rule citation & name (name not required for repeal): 2018 NC Residential Code N1101.13 (R401.2) Compliance (200714 Item B-23) | |
| 3. Action: <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION | |
| 4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No | 5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No |
| 6. Notice for Proposed Rule: <input checked="" type="checkbox"/> Notice Required Notice of Text published on: August 17, 2020 Link to Agency notice: https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notice Hearing on: September 1, 2020 Adoption by Agency on: December 8, 2020 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on: | |
| 7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No | 8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required |
| 9. REASON FOR ACTION | |
| 9A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: </div> <div style="width: 45%;"> <input type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: <input checked="" type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other: </div> </div> | |
| 9B. Explain: The purpose of this amendment is to expand the options for compliance by allowing the use of the ANSI/RESNET/ICC 301 -2019 Standard for Calculation and Labeling of Energy Performance of Low-Rise Residential Buildings using an Energy Rating Index as a stand-alone compliance path. The delayed effective date of this Rule is January 1, 2022. The Statutory authority for Rule-making is G. S. 143-136; 143-138. | |
| 10. Rulemaking Coordinator: Carl Martin Carl Martin Phone: 1(919)647-0009 E-Mail: carl.martin@ncdoi.gov Additional agency contact, if any: Phone: E-Mail: | 11. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center; margin-top: 10px;">  </div> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Carl Martin Title: Chief Code Consultant |
| RRC AND OAH USE ONLY | |
| Action taken: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input checked="" type="checkbox"/> Other: </div> <div style="width: 50%;"> Submitted to OSBM per 150B-21.9(a) on 2/18/21 </div> </div> | |

SUBMISSION FOR PERMANENT RULE

2018 NC Residential Code
N1101.13 (R401.2) Compliance. (200714 Item B-23)

IRC Chapter 11

N1101.13 (R401.2) Compliance. Projects shall comply with one of the following:

1. Sections N1101.14 through N1104.
2. Section N1105 and the provisions of Sections N1101.14 through N1104 labeled “Mandatory.”
3. An energy rating index (ERI) approach in Section N1106.
4. North Carolina specific REScheck™ shall be permitted to demonstrate compliance with this code. Envelope requirements may not be traded off against the use of high efficiency heating or cooling equipment. No trade-off calculations are needed for required termite inspection and treatment gaps.
5. Rated in accordance with ANSI/RESNET/ICC 301-2019 Standard for the Calculation and Labeling of the Energy Performance of Dwelling and Sleeping Units using an Energy Rating Index with a maximum energy rating index (ERI) less than or equal to the appropriate value indicated in one of the following tables as applicable, when compared to the ERI reference design:

MAXIMUM ENERGY RATING INDEX
(without calculation of on-site renewable energy)

| <u>CLIMATE ZONE</u> | <u>JAN. 1, 2019 – Dec. 31, 2022</u> | <u>JAN. 1, 2023 AND FORWARD</u> |
|---------------------|---|-------------------------------------|
| <u>3</u> | <u>65</u> | <u>61</u> |
| <u>4</u> | <u>67</u> | <u>63</u> |
| <u>5</u> | <u>67</u> | <u>63</u> |

MAXIMUM ENERGY RATING INDEX
(including calculation of on-site renewable energy)

| <u>CLIMATE ZONE</u> | <u>JAN. 1, 2019 – Dec. 31, 2022</u> | <u>JAN. 1, 2023 AND FORWARD</u> |
|---------------------|---|-------------------------------------|
| <u>3</u> | <u>51</u> | <u>42</u> |
| <u>4</u> | <u>54</u> | <u>50</u> |
| <u>5</u> | <u>55</u> | <u>51</u> |

REQUEST FOR TECHNICAL CHANGE

AGENCY: Building Code Council

RULE CITATION: NC Residential Code, N1101.13(R401.2)

DEADLINE FOR RECEIPT: Friday, February 12, 2021

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On the Submission for Permanent Rule form, Box 9B, this is not the reason for amendment that you published in the Register. Please update it here.

In Item (5), you refer to the "Calculation and Labeling of the Energy Performance of Dwelling and Sleeping Units" but you published "Calculation and Labeling of the Energy Performance of Low-Rise Residential Buildings." Was this change made in response to public comment?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: January 29, 2021

SUBMISSION FOR PERMANENT RULE

2018 NC Residential Code
N1101.13 (R401.2) Compliance. (200714 Item B-23)

IRC Chapter 11

N1101.13 (R401.2) Compliance. Projects shall comply with one of the following:

1. Sections N1101.14 through N1104.
2. Section N1105 and the provisions of Sections N1101.14 through N1104 labeled “Mandatory.”
3. An energy rating index (ERI) approach in Section N1106.
4. North Carolina specific REScheck™ shall be permitted to demonstrate compliance with this code. Envelope requirements may not be traded off against the use of high efficiency heating or cooling equipment. No trade-off calculations are needed for required termite inspection and treatment gaps.
5. Rated in accordance with ANSI/RESNET/ICC 301-2019 Standard for the Calculation and Labeling of the Energy Performance of Dwelling and Sleeping Units using an Energy Rating Index with a maximum energy rating index (ERI) less than or equal to the appropriate value indicated in one of the following tables as applicable, when compared to the ERI reference design:

MAXIMUM ENERGY RATING INDEX
(without calculation of on-site renewable energy)

| <u>CLIMATE ZONE</u> | <u>JAN. 1, 2019 – Dec. 31, 2022</u> | <u>JAN. 1, 2023 AND FORWARD</u> |
|---------------------|---|-------------------------------------|
| <u>3</u> | <u>65</u> | <u>61</u> |
| <u>4</u> | <u>67</u> | <u>63</u> |
| <u>5</u> | <u>67</u> | <u>63</u> |

MAXIMUM ENERGY RATING INDEX
(including calculation of on-site renewable energy)

| <u>CLIMATE ZONE</u> | <u>JAN. 1, 2019 – Dec. 31, 2022</u> | <u>JAN. 1, 2023 AND FORWARD</u> |
|---------------------|---|-------------------------------------|
| <u>3</u> | <u>51</u> | <u>42</u> |
| <u>4</u> | <u>54</u> | <u>50</u> |
| <u>5</u> | <u>55</u> | <u>51</u> |