

Burgos, Alexander N

Subject: FW: [External] NCHILB Rulemaking

From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Tuesday, May 14, 2024 5:48 PM

To: CLEARY, GINA M <gcleary@ncdoj.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Heuser, Kyle <kyle.heuser@ncdoi.gov>; Hejduk, Mike <Mike.Hejduk@ncdoi.gov>

Subject: RE: [External] NCHILB Rulemaking

Gina,

These two revisions look good to me. I believe I can recommend approval of all rules. Thank you for making the changes. If you would, please send all the final revised versions to oah.rules@oah.nc.gov, copying me and Alex, and we should be good to go for the meeting on the 29th.

Best,
Brian

Brian Liebman
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Burgos, Alexander N

Subject: FW: [External] NCHILB Rulemaking
Attachments: 11 NCAC 08 .1103 Purpose and Scope to OAH 05142024.docx; 11 NCAC 08 .1116 - Code of Ethics to OAH 05142024.docx

From: Cleary, Gina <gcleary@NCDOJ.GOV>
Sent: Tuesday, May 14, 2024 1:47 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Heuser, Kyle <kyle.heuser@ncdoi.gov>; Hejduk, Mike <Mike.Hejduk@ncdoi.gov>
Subject: [External] NCHILB Rulemaking

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Hi Mr. Liebman,

Thank you for your comments and recommendations. Based on the concerns you raised, the NC HILB has made some revisions as to Rules .1103 and .1116 (attached). Below is a short explanation highlighted below in response to your comments.

As always, please feel free to contact us if you have any questions or concerns.

Very truly yours,
Gina

Rule .1103

*In (b)(1)(C), can an inspection be only for one system? G.S. 143-151.45 defines a home inspection as “a written evaluation . . . of **two or more** of the following components of a residential building...”*

Yes, while the NCHILB Standards of Practice (SOP) define a home inspection as two or more systems or components, clients may contract for inspection of a single system (i.e. roof, plumbing, etc.) and if so the Home Inspector is still bound to provide a report (written evaluation) that complies with the SOP to state all the systems not inspected. Rule 1003 Persons and Practices Not Affected also “carves out” for other licensed professionals the ability to perform single system inspections without being in violation of the Board rules.

I understand what you’re telling me, but the issue is that the statute defines “home inspection” as an inspection of two or more systems, and you have to comply with the statute, or talk to the legislature about changing it. I would suggest here that you eliminate “only one or” and revise to “when an inspection is for a limited number of systems...” I think that doesn’t change the meaning, but complies with the statute.

HILB Comment: Done. Please see attached.

Rule .1116

*In (a), line 8, what does it mean to discharge duties with “fidelity” and “fairness”? Please define these terms. **The terms “fidelity” and “fairness” are used herein in their customary everyday context. The***

term “fairness” is also used in multiple other rules in the NC Administrative Code. For example, 21 NCAC 68 .0510 provides that “[t]he substance use disorder professional shall treat colleagues with respect, courtesy, and fairness and shall afford the same professional courtesy to other professionals” and 24 NCAC 03 .0704 provides that “[i]n the event such ex parte communication occurs, the Board or the hearing examiner may make such orders to take such action as fairness requires.” Moreover, 27 NCAC 02 Rule 3.4 of the North Carolina Rules of Professional Conduct is titled – without defining the term – “Fairness to Opposing Party and Counsel.”

Other states with codes of ethics for licensed home inspectors also use the terms “fidelity” and “fairness” in the same context proposed here. For example, Tennessee’s Rule 0780-05-12-.11 provides that “[l]icensees shall discharge their duties with fidelity to the public, their clients, and with fairness and impartiality to all.”

If Commission Counsel determines that the terms “fidelity” and “fairness” are unavoidably ambiguous, the Board proposes revising the rule using the terms “faithfully,” “accurately,” and “impartially” such that the provision would read as follows: “Licensees shall discharge their duties faithfully, accurately, and impartially to the public and their clients.”

I think “fidelity” is fine, as it has an objective meaning. Fairness, on the other hand, is a more subjective term, as what is fair to one may be considered unfair to another. I think the suggested term “accurately” or “accuracy” would satisfy my concern, as it, like fidelity, has an objective meaning.

HILB Comment: revised after above comment to: Licensees shall discharge their duties faithfully, accurately, and impartially to the public and their clients.”



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1 11 NCAC 08 .1103 is amended with changes as published in 38:06 NCR 334 as follows:

2
3 **11 NCAC 08 .1103 PURPOSE AND SCOPE**

4 (a) Home inspections performed according to this Section shall provide the client with an understanding of the
5 property conditions, as inspected at the time of the home inspection.

6 (b) Home inspectors shall:

7 (1) provide a written contract, signed by the client, before the home inspection is performed that shall:

8 (A) State state that the home inspection is in accordance with the Standards of Practice of the
9 North Carolina Home Inspector Licensure Board as set forth in this Section;

10 (B) State state what services shall be provided and the cost; and

11 (C) When when an inspection is for only one or a limited number of systems or components,
12 state that the inspection is limited to only those systems or components;

13 (2) inspect readily visible and readily accessible installed systems and components described in Rules
14 .1106 through .1115 of this Section;

15 (3) submit a written report pursuant to G.S. 143-151.58(a), to the client that shall:

16 (A) Describe describe those systems and components required to be described in Rules .1106
17 through .1115 of this Section;

18 (B) State state which systems and components present at the home and designated for
19 inspection in this Section were not inspected, and the reason for not inspecting;

20 (C) State state any systems or components inspected that do not function as intended, allowing
21 for normal wear and tear, or appear not to function as intended, based upon documented
22 tangible evidence;

23 (D) Describe describe each system or component, pursuant to Part (b)(3)(C) of this Rule; state
24 how the condition is defective; explain the implications of defective conditions reported;
25 and direct the client to a course of action for repair, monitoring, or further investigation by
26 a specialist;

27 (E) On] on the first or second page clearly State state the name, license number, and signature
28 of the person conducting the inspection.

29 (4) submit a summary page(s) pursuant to G.S. 143-151.58(a1).

30 (c) Home inspectors may:

31 (1) report observations and conditions, including safety or habitability concerns, or render opinions of
32 items in addition to those required in Paragraph (b) of this Rule; or

33 (2) exclude systems and components from the inspection if requested by the client, and so stated in the
34 written contract.

35
36 *History Note: Authority G.S. 143-151.49; 143-151.58;*

1 *Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15,*
2 *1996;*
3 *Temporary Adoption Eff. October 24, 1996;*
4 *Eff. July 1, 1998;*
5 *Amended Eff. October 1, 2014; October 1, 2011; March 1, 2010; February 1, 2009; February 1,*
6 *2007; April 1, 2005; May 1, 2003; July 1, 2000;*
7 *Readopted Eff. October 1, 2018.*
8 *Amended Eff. October 1, 2024.*
9

1 11 NCAC 08 .1116 is amended with changes as published in 38:06 337-338 as follows:

2
3 **11 NCAC 08 .1116 CODE OF ETHICS**

4 (a) Licensees shall discharge their duties ~~with fidelity~~ faithfully, accurately, and impartially to the public and to their
5 clients. ~~with fairness and impartiality to all.~~

6 (b) Opinions expressed by licensees shall be based only on their education, experience, and honest convictions.

7 (c) A licensee shall not disclose any information about the results of an inspection without the approval of the client
8 for whom the inspection was performed, or the client's ~~representative.~~ representative, unless the licensee finds that
9 public health, safety, or welfare imperatively requires immediate or emergency action.

10 (d) No licensee shall accept compensation or any other consideration from more than one interested party for the
11 same service without the written consent of all interested parties.

12 (e) No licensee or licensee's company shall compensate, either financially or through other services or benefits, realty
13 agents or other parties with a financial interest in closing or settlement of real estate transactions for the following:

14 (1) Referral of inspections; or

15 (2) Inclusion on a list of recommended inspectors or preferred providers.

16 This Rule also prohibits co-marketing or sharing of expenses between the licensee or licensee's company and realty
17 agents or other parties with a financial interest in closing or settlement of real estate transactions that obligates the
18 realty agents or other parties with a financial interest in closing or settlement of real estate transactions to include the
19 licensee or the licensee's company on preferred lists of providers. [However, nothing set forth in this Rule shall
20 prohibit a licensee or licensee's company from engaging in customary marketing activities of low monetary value,
21 such as providing food or beverages or other items, where the costs for such marketing activities are nominal, so
22 long as the marketing activities are not intended to be a form of compensation in exchange for recommendations for
23 referrals or placement on preferred lists of providers.]

24 (f) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the
25 inspected property.

26 (g) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest
27 he or she has in a business that may create a conflict of interest for the home inspector or the client. No licensee shall
28 allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be
29 called upon to perform. The client must approve in writing the licensee's dissemination of personal information
30 [~~(including names, addresses, email addresses or phone numbers)~~] unrelated to the results of the home inspection to
31 any third parties, other than the Board.

32 (h) A licensee shall not solicit for repairs of systems or components found defective in the course of a home inspection
33 performed by the licensee or that licensee's company.

34 (i) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.

35 (j) Licensees shall not inspect properties under contingent arrangements whereby any compensation or future referrals
36 are dependent on reported findings or on the sale of a property.

1 (k) A licensee shall not impugn the professional reputation or practice of another home inspector, nor criticize another
2 inspector's reports.

3 (l) ~~[Unless]~~ Licensees must obtain written permission ~~[is obtained]~~ from the ~~[appropriate party or parties,]~~ client or
4 clients ~~[the licensee shall not]~~ to sell, ~~[share]~~ share, or provide data or personal information ~~[such as names,~~
5 ~~addresses, email addresses, telephone numbers]~~ about the home inspection or the client or clients to third parties,
6 other than the ~~[Board,]~~Board. ~~[and shall "opt-out" of software programs that seek permission from the licensee to use~~
7 ~~such data or personal information obtained from home inspection.]~~

8

9 *History Note: Authority G.S. 143-151.49;*
10 *Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15,*
11 *1996;*
12 *Temporary Adoption Eff. October 24, 1996;*
13 *Eff. July 1, 1998;*
14 *Amended Eff. May 1, 2013; October 1, 2010; July 1, 2000;*
15 *Readopted Eff. October 1, 2018.*
16 *Amended Eff. October 1, 2024.*

17

Burgos, Alexander N

Subject: FW: [External] NCHILB Rulemaking
Attachments: 11 NCAC 08 .1101 Definitions to OAH 05062024.docx; 11 NCAC 08 .1103 Purpose and Scope to OAH 05062024.docx; 11 NCAC 08 .1105 General Exclusions - to OAH 05062024.docx; 11 NCAC 08 .1107 Exteriors -to OAH 05062024.docx; 11 NCAC 08 .1109 Plumbing -to OAH 05062024.docx; 11 NCAC 08 .1110 Electrical - to OAH 05062024.docx; 11 NCAC 08 .1116 - Code of Ethics to OAH 05062023.docx; 11 NCAC 08 Response to Request for Changes to oah 05062024.docx

From: Cleary, Gina <gcleary@NCDOJ.GOV>
Sent: Monday, May 6, 2024 3:22 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Cc: Hejduk, Mike <Mike.Hejduk@ncdoi.gov>; Heuser, Kyle <kyle.heuser@ncdoi.gov>
Subject: [External] NCHILB Rulemaking

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Dear Mr. Liebman,

Attached please find the Response to Technical Changes from the North Carolina Home Inspector Licensure Board. We hope we have provided adequate responses to your requests for changes.

Please feel free to contact us should you have any questions.

Very truly yours,

Gina



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1 11 NCAC 08 .1101 is amended with changes as published in 38:06 NCR 332-334 as follows:

2

3 **11 NCAC 08 .1101 DEFINITIONS**

4 The following definitions apply to this Section:

5 (1) "Abnormal" means nontypical or unusual conditions that could cause damage to systems and
6 components of the home.

7 (2) "Arc-fault circuit interrupter" means a device intended to provide protection from the effects of arc
8 faults by recognizing characteristics unique to arcing and [by functioning to] de-energize de-
9 energizing the circuit when an arc fault is detected.

10 ~~(2)~~(3) "Automatic safety controls" means devices designed and installed to protect systems and
11 components from excessively high or low pressures and temperatures, excessive electrical current,
12 loss of water, loss of ignition, fuel leaks, fire, freezing, or other unsafe conditions as stated in
13 manufacturer's instructions.

14 ~~(3)~~(4) "Central air conditioning" means a system that uses ducts to distribute cooled or dehumidified air to
15 more than one room or uses pipes to distribute chilled water to heat exchangers in more than one
16 room, and that is not plugged into an electrical convenience outlet.

17 ~~(4)~~ (5) "Component" means a readily accessible and visible aspect of a system, such as a floor, floor or
18 wall, but not individual pieces such as boards or nails where many similar pieces make up the
19 component.

20 ~~(5)~~(6) "Cosmetic damage" means blemishes or defects that do not interfere with the functionality of the
21 component or system.

22 ~~(6)~~(7) "Cross connection" means any physical connection or [arrangement] contact between potable water
23 and any source of contamination.

24 ~~(7)~~(8) "Dangerous or adverse situations" means situations that pose a threat of injury to the inspector, or
25 those situations that require the use of special protective clothing or safety equipment.

26 ~~(8)~~(9) "Describe" means report in writing a system or component by its type, or other inspected
27 characteristics, to distinguish it from other systems or components used for the same purpose.

28 ~~(9)~~(10) "Dismantle" means to take apart or remove any component, device, or piece of equipment that is
29 bolted, screwed, or fastened by other means and that would not be disassembled by a homeowner
30 in the course of routine household maintenance.

31 ~~(10)~~(11) "Enter" means to go into an area to inspect all visible components.

32 ~~(11)~~(12) "Functional drainage" means a drain that empties at a rate equal to or greater than the supply water
33 flow to the fixture.

34 ~~(12)~~ (13) "Functional flow" means a usable flow at the highest fixture in a dwelling when another fixture is
35 operated simultaneously.

1 (14) "Gray water" means wastewater generated from household activities that do not involve human
2 waste, such as bathing, showering, handwashing, and laundry, which typically contains some
3 residues from soap, detergent, and dirt.

4 (15) "Gray water system" means a water reuse system contained within a single-family residence
5 or multiunit residential or commercial building that filters gray water or captured rainwater and
6 reuses it for ~~nonportable~~ nonpotable purposes such as toilet flushing and irrigation.

7 (16) "Ground-fault circuit interrupter" means devices intended for the protection of ~~personnel~~ people
8 that ~~functions to de-energize~~ de-energizes a circuit or portion thereof within an established
9 period of time when currents are out of balance.

10 ~~(13)~~(17) "Habitable space" means a space in a building for living, sleeping, ~~eating~~ eating, or cooking.
11 "Habitable space" does not mean a bathroom, toilet room, closet, or any space used or designed for
12 storage.

13 ~~(14)~~(18) "Harmful" means conditions that cause damage to systems and components of the home.

14 ~~(15)~~(19) "Inspect" means to make a visual examination.

15 ~~(16)~~ (20) "Installed" means attached or connected such that an item requires tools for removal.

16 ~~(17)~~(21) "Normal operating controls" means homeowner operated devices such as a thermostat, wall switch,
17 or safety switch.

18 ~~(18)~~(22) "On-site water supply quality" means water quality based on the bacterial, chemical, mineral, and
19 solids content of the on-site well water.

20 ~~(19)~~ (23) "On-site water supply quantity" means the rate of flow of on-site well water.

21 ~~(20)~~ (24) "Operate" means to cause systems or equipment to ~~function-~~ function as intended.

22 ~~(21)~~(25) "Readily accessible" means within reach, without the use of a ladder, not blocked by appliances,
23 and approachable or enterable for visual inspection without the risk of damage to any property or
24 alteration of the accessible space, equipment, or opening.

25 ~~(22)~~ (26) "Readily openable access panel" means a panel provided for homeowner inspection and
26 maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung
27 open, or otherwise removed by one person; and its edges and fasteners are not painted in place. This
28 definition is limited to those panels within reach standing on the floor or from a four-foot stepladder,
29 and that are not blocked by stored items, furniture, or building components.

30 ~~(23)~~(27) "Readily visible" means seen by using natural or artificial light without the use of equipment or tools
31 other than a flashlight.

32 ~~(24)~~(28) "Representative number" means, for multiple identical components such as windows and electrical
33 outlets, one such component per room; and, for multiple identical exterior components, one such
34 component on each side of the building.

35 ~~(25)~~ (29) "Roof drainage systems" means gutters, downspouts, leaders, splash blocks, and similar components
36 used to carry water off a roof and away from a building.

1 (30) “Sewage pump” means a device used at elevations where mechanical assistance is needed to move
2 effluent to a sewage system.

3 ~~(26)~~(31) "Shut down" means a piece of equipment or a system that cannot be operated by the device or control
4 provided for homeowner operation. If its safety switch or circuit breaker is in the "off" position, or
5 its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of
6 operating the equipment or system.

7 ~~(27)~~ (32) "Solid fuel heating device" means any wood, coal, fossil, or other similar organic fuel burning
8 device, including fireplaces whether masonry or factory built, fireplace inserts and stoves, wood
9 stoves (room heaters), central furnaces, and combinations of these devices.

10 ~~(28)~~ (33) "Structural component" means a component that supports non-variable forces or weights (dead
11 loads) and variable forces or weights (live loads).

12 (34) “Sump pump” means a device used to remove [clear water such as condensation or foundation
13 drainage not associated with the plumbing system.] non-effluent drainage.

14 ~~(29)~~ (35) "System" means a combination of interacting or interdependent components, assembled to carry out
15 one or more functions.

16 ~~(30)~~ (36) "Technically exhaustive" means an inspection involving the use of measurements, instruments,
17 testing, calculations, and other means to develop scientific or engineering findings, conclusions, and
18 recommendations.

19 ~~(31)~~(37) "Under floor crawl space" means the area within the confines of the foundation and between the
20 ground and the underside of the lowest floor structural component.

21
22 History Note: Authority G.S. 143-151.49;
23 Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15,
24 1996;
25 Temporary Adoption Eff. October 24, 1996;
26 Eff. July 1, 1998;
27 Amended Eff. February 1, 2007; April 1, 2005; May 1, 2003;
28 Readopted Eff. October 1, 2018.
29 Amended Eff. October 1, 2024.

1 11 NCAC 08 .1103 is amended with changes as published in 38:06 NCR 334 as follows:

2
3 **11 NCAC 08 .1103 PURPOSE AND SCOPE**

4 (a) Home inspections performed according to this Section shall provide the client with an understanding of the
5 property conditions, as inspected at the time of the home inspection.

6 (b) Home inspectors shall:

- 7 (1) provide a written contract, signed by the client, before the home inspection is performed that shall:
- 8 (A) State state that the home inspection is in accordance with the Standards of Practice of the
9 North Carolina Home Inspector Licensure Board as set forth in this Section;
- 10 (B) State state what services shall be provided and the cost; and
- 11 (C) When when an inspection is for only one or a limited number of systems or components,
12 state that the inspection is limited to only those systems or components;
- 13 (2) inspect readily visible and readily accessible installed systems and components described in Rules
14 .1106 through .1115 of this Section;
- 15 (3) submit a written report pursuant to G.S. 143-151.58(a), to the client that shall:
- 16 (A) Describe describe those systems and components required to be described in Rules .1106
17 through .1115 of this Section;
- 18 (B) State state which systems and components present at the home and designated for
19 inspection in this Section were not inspected, and the reason for not inspecting;
- 20 (C) State state any systems or components inspected that do not function as intended, allowing
21 for normal wear and tear, or appear not to function as intended, based upon documented
22 tangible evidence;
- 23 (D) Describe describe each system or component, pursuant to Part (b)(3)(C) of this Rule; state
24 how the condition is defective; explain the implications of defective conditions reported;
25 and direct the client to a course of action for repair, monitoring, or further investigation by
26 a specialist;
- 27 (E) On] on the first or second page clearly State state the name, license number, and signature
28 of the person conducting the inspection.
- 29 (4) submit a summary page(s) pursuant to G.S. 143-151.58(a1).

30 (c) Home inspectors may:

- 31 (1) report observations and conditions, including safety or habitability concerns, or render opinions of
32 items in addition to those required in Paragraph (b) of this Rule; or
- 33 (2) exclude systems and components from the inspection if requested by the client, and so stated in the
34 written contract.
- 35

36 *History Note: Authority G.S. 143-151.49; 143-151.58;*

1 *Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15,*
2 *1996;*
3 *Temporary Adoption Eff. October 24, 1996;*
4 *Eff. July 1, 1998;*
5 *Amended Eff. October 1, 2014; October 1, 2011; March 1, 2010; February 1, 2009; February 1,*
6 *2007; April 1, 2005; May 1, 2003; July 1, 2000;*
7 *Readopted Eff. October 1, 2018.*
8 *Amended Eff. October 1, 2024.*
9

1 11 NCAC 08 .1105 is amended with changes as published in 38:06 NCR 334-335 as follows:

2
3 **11 NCAC 08 .1105 GENERAL EXCLUSIONS**

4 (a) Home inspectors are not required to report on:

- 5 (1) Life life expectancy of any component or system;
- 6 (2) The the causes of the need for a repair;
- 7 (3) The the methods, materials, and costs of corrections;
- 8 (4) The the suitability of the property for any specialized use;
- 9 (5) Compliance compliance or non-compliance with codes, ordinances, statutes, regulatory
10 requirements, or restrictions;
- 11 (6) The the market value of the property or its marketability;
- 12 (7) The the advisability or inadvisability of purchase of the property;
- 13 (8) Any any component or system that was not inspected;
- 14 (9) The the presence or absence of pests such as wood damaging organisms, rodents, or insects;
- 15 (10) Cosmetic cosmetic damage, underground items, or items not installed; or
- 16 (11) The the presence or absence of systems installed to control or remove suspected hazardous
17 substances listed in Subparagraph (b)(7) of this Rule.

18 (b) Home inspectors are not required to:

- 19 (1) Offer offer warranties or guarantees of any kind;
- 20 (2) Calculate calculate the strength, adequacy, or efficiency of any system or component;
- 21 (3) Enter enter any area or perform any procedure that may damage the property or its components or
22 be dangerous to or adversely affect the health or safety of the home inspector or other persons;
- 23 (4) Operate operate any system or component that is shut down or otherwise inoperable;
- 24 (5) Operate operate any system or component that does not respond to normal operating controls;
- 25 (6) Move-move-personal items, panels, furniture, equipment, plant life, soil, snow, ice, or debris that
26 obstructs access or visibility;
- 27 (7) Determine determine the presence or absence of any suspected adverse environmental condition or
28 hazardous substance, including mold, toxins, carcinogens, noise, contaminants in the building or in
29 soil, water, and air;
- 30 (8) Determine determine the effectiveness of any system installed to control or remove suspected
31 hazardous substances;
- 32 (9) Determine determine House Energy Ratings (HER), insulation R values, system or component
33 efficiencies;
- 34 (10) Inspect inspect heat recovery and similar whole house ventilation systems;
- 35 (11) Predict predict future condition, including failure of components;
- 36 (12) Project project operating costs of components;
- 37 (13) Evaluate evaluate acoustical characteristics of any system or component;

- 1 (14) ~~Inspect inspect~~ special equipment or accessories that are not listed as components to be inspected in
2 this Section; ~~or~~
- 3 (15) ~~Disturb disturb~~ insulation, except as required in Rule .1114 of this ~~Section~~. Section;
- 4 (16) ~~[Inspect] inspect~~ elevators or related equipment meant to transport occupants or materials between
5 elevations; or
- 6 (17) ~~[Inspect] inspect~~ 240V receptacles or outlets.

7 (c) Home inspectors shall not:

- 8 (1) ~~Offer offer~~ or perform any act or service contrary to law; or
- 9 (2) ~~Offer offer~~ or perform engineering, architectural, plumbing, electrical or any other job function
10 requiring an occupational license in the jurisdiction where the inspection is taking place, unless the
11 home inspector holds a valid occupational license. In that case the home inspector shall inform the
12 client that the home inspector is so licensed, and therefore qualified to go beyond this Section and
13 perform additional inspections beyond those within the scope of the Standards of Practice.

14
15 *History Note: Authority G.S. 143-151.49;*

16 *Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15,*
17 *1996;*

18 *Temporary Adoption Eff. October 24, 1996;*

19 *Eff. July 1, 1998;*

20 *Amended Eff. February 1, 2007; April 1, 2005; May 1, 2003;*

21 *Readopted Eff. October 1, 2018.*

22 *Amended Eff. October 1, 2024.*

1 11 NCAC 08 .1107 is amended with changes as published in 38:06 NCR 335 as follows:

2
3 **11 NCAC 08 .1107 EXTERIOR**

4 (a) The home inspector shall inspect:

- 5 (1) Wall wall cladding, flashings, and trim;
- 6 (2) Entryway entryway doors and a representative number of windows;
- 7 (3) Garage garage door operators; operators, including automatic safety controls;
- 8 (4) Decks, decks, balconies, stoops, steps, areaways, porches, and appurtenant railings;
- 9 (5) Eaves, eaves, soffits, and fascias;
- 10 (6) Driveways, driveways, patios, walkways, and retaining walls; and
- 11 (7) Vegetation, vegetation, grading, and drainage with respect only to their effect on the condition of
12 the building.

13 (b) The home inspector shall:

- 14 (1) Describe describe wall cladding materials;
- 15 (2) Operate operate all entryway doors;
- 16 (3) Operate operate garage doors manually or by using installed controls for any garage door operator;
17 [and]
- 18 (4) Report report ~~whether or not~~ any garage door operator that will not automatically reverse or stop
19 when meeting reasonable resistance during closing; and
- 20 ~~(5) [Report] report [when] any garage door that will not automatically reverse when photoelectric safety~~
21 ~~devices are actuated;~~
- 22 ~~(6) [Report] report any garage door operator that does not utilize a photoelectric safety device; and~~
- 23 ~~(5)(7) Probe probe exterior wood components where deterioration is suspected.~~

24 (c) The home inspector is not required to inspect:

- 25 (1) Storm storm windows, storm doors, screening, shutters, and awnings;
- 26 (2) Fences; fences;
- 27 (3) For for the presence of safety glazing in doors and windows;
- 28 (4) Garage-garage door operator remote control transmitters;
- 29 (5) Geological geological conditions;
- 30 (6) Soil soil conditions;
- 31 (7) Recreational recreational facilities (including spas, saunas, steam baths, swimming pools, tennis
32 courts, playground equipment, and other exercise, entertainment, or athletic facilities), except as
33 otherwise required in 11 NCAC 08 .1109(d)(5)(F);
- 34 (8) Detached detached buildings or structures; or
- 35 (9) For for the presence or condition of buried fuel storage tanks.

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37 *History Note: Authority G.S. 143-151.49;*

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Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;
Temporary Adoption Eff. October 24, 1996;
Eff. July 1, 1998;
Amended Eff. February 1, 2007; April 1, 2005; July 1, 2000;
Readopted Eff. October 1, 2018.
Amended Eff. October 1, 2024.

1 11 NCAC 08 .1109 is amended with changes as published in 38:06 NCR 335-336 as follows:

2

3 **11 NCAC 08 .1109 PLUMBING**

4 (a) The home inspector shall inspect:

5 (1) ~~Interior~~ interior water supply and distribution system, including: piping materials, supports, and
6 insulation; fixtures and faucets; functional flow; leaks; and cross connections;

7 (2) ~~Interior~~ interior drain, waste, and vent system, including: traps; drain, waste, and vent piping; piping
8 supports and pipe insulation; leaks; and functional drainage;

9 (3) ~~Hot~~ hot water systems including: water heating equipment; normal operating controls; automatic
10 safety controls; and chimneys, flues, and vents;

11 (4) ~~Fuel~~ fuel storage and distribution systems including: interior fuel storage equipment, supply piping,
12 venting, and supports; leaks; and

13 (5) ~~Sump~~ sump pumps.

14 (b) The home inspector shall describe:

15 (1) ~~Water~~ water supply and distribution piping materials;

16 (2) ~~Drain,~~ drain waste, and vent piping materials;

17 (3) ~~Water~~ water heating equipment, including fuel or power source, storage capacity or tankless point
18 of use demand systems, and location; and

19 (4) ~~The~~ the location of any main water supply shutoff device.

20 (c) The home inspector shall operate all plumbing fixtures, including their faucets and all exterior faucets attached to
21 the house, except where the flow end of the faucet is connected to an appliance.

22 (d) The home inspector is not required to:

23 (1) ~~State~~ state the requirement for or effectiveness of anti-siphon devices;

24 (2) ~~Determine~~ determine whether water supply and waste disposal systems are public or ~~private~~ private;
25 ~~or the presence or absence of backflow devices;~~

26 (3) ~~[Operate] automatic safety controls~~ determine the presence or absence of backflow devices;

27 (3)(4) ~~Operate~~ operate automatic safety controls;

28 (4)(5) ~~Operate~~ operate any valve except water closet flush valves, fixture faucets, and hose faucets;

29 (5)(6) ~~Inspect;~~ inspect:

30 (A) ~~Water~~ water conditioning systems;

31 (B) ~~Fire~~ fire and lawn sprinkler systems;

32 (C) ~~On-site~~ on-site water supply quantity and quality;

33 (D) ~~On-site~~ on-site waste disposal ~~systems;~~ systems including electrical controls, alarms,
34 sewage pumps, and gray water systems;

35 (E) ~~Foundation~~ foundation irrigation systems;

36 (F) ~~Bathroom~~ bathroom spas, whirlpools, or air jet tubs except as to functional flow and
37 functional drainage;

- 1 (G) ~~Swimming~~ swimming pools;
- 2 (H) ~~Solar~~ solar water heating equipment; ~~or~~
- 3 (I) ~~Fixture~~ fixture overflow devices or shower pan liners; ~~or~~
- 4 ~~(6)(7)~~ ~~Inspect~~ inspect the system for proper sizing, design, or use of approved materials;
- 5 ~~(7)(8)~~ ~~Report~~ report on the absence or presence of thermal expansion tanks; ~~or~~
- 6 ~~(8)(9)~~ ~~Report~~ report on the adequacy of the reported water heater ~~capacity.~~ capacity; or
- 7 ~~(9)(10)~~ ~~[Operate]~~ operate sewage pumps.

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10 *History Note: Authority G.S. 143-151.49;*
11 *Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15,*
12 *1996;*
13 *Temporary Adoption Eff. October 24, 1996;*
14 *Eff. July 1, 1998;*
15 *Amended Eff. February 1, 2007; April 1, 2005;*
16 *Readopted Eff. October 1, 2018.*
17 *Amended Eff. October 1, 2024.*

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1 11 NCAC 08 .1110 is amended with changes as published in 38:06 336 as follows:

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3 **11 NCAC 08 .1110 ELECTRICAL**

4 (a) The home inspector shall inspect:

5 (1) ~~Electrical electrical~~ service entrance conductors;

6 (2) ~~Electrical electrical~~ service equipment, grounding equipment, main overcurrent device, and interiors
7 of panelboard enclosures unless unsafe conditions are reported;

8 (3) ~~Amperage amperage~~ and voltage ratings of the electrical service;

9 (4) ~~Branch branch~~ circuit conductors, their overcurrent devices, and the compatibility of their
10 ampacities at the interiors of panelboard enclosures unless unsafe conditions are reported;

11 (5) ~~The the~~ operation of a representative number of installed ceiling fans, lighting fixtures, switches,
12 and receptacles located inside the house, garage, and on the dwelling's exterior walls;

13 (6) ~~The polarity and grounding of all [All] all readily accessible 120V receptacles within six feet of~~
14 ~~interior plumbing fixtures, not separated from a fixture by an operable door, and all receptacles in~~
15 ~~the garage or carport, and on the exterior of inspected structures; structures; and~~

16 (7) ~~The the~~ operation of ground fault circuit ~~interrupters; and interrupters within six feet of the~~
17 ~~floor/ground.~~

18 (8) ~~Smoke detectors and installed carbon monoxide alarms.~~

19 (b) The home inspector shall describe:

20 (1) ~~Electrical electrical~~ service amperage and voltage;

21 (2) ~~Electrical electrical~~ service entry conductor ~~materials; materials at the readily openable access~~
22 ~~panels at the main;~~

23 (3) ~~The the~~ electrical service type as being overhead or underground; and

24 (4) ~~The the~~ location of main and distribution panels.

25 (c) The home inspector shall report in writing the presence of any readily accessible single strand aluminum branch
26 circuit wiring.

27 (d) The home inspector shall report in writing ~~on~~ the presence or absence of ~~readily accessible; smoke detectors, and~~
28 ~~installed carbon monoxide alarms in any homes with fireplaces, fuel fired appliances or attached garages, and operate~~
29 ~~their test function, if readily accessible, except when detectors are part of a central alarm system.~~

30 (1) ~~[Installed] installed~~ smoke alarms, and operate their test function, except when smoke alarms are
31 ~~part of a central alarm system;~~

32 (2) ~~[Installed] installed~~ carbon monoxide alarms in any homes with fireplaces, fuel fired appliances, or
33 ~~attached garages, and operate their test function, except when carbon monoxide alarms are part of a central alarm~~
34 ~~system; and~~

35 (3) ~~[Ground] ground~~ fault protection of receptacles within six feet of interior plumbing fixtures not
36 ~~separated from a fixture by an operable door, and all receptacles in the garage or carport, on the exterior of inspected~~
37 ~~structures.~~

- 1 (e) The home inspector is not required to:
- 2 (1) ~~Insert~~ insert any tool, probe, or testing device inside the panels;
- 3 (2) ~~Test~~ test or operate any arc-fault circuit interrupters or other overcurrent device. ~~devices; except~~
4 ~~ground fault circuit interrupters;~~
- 5 (3) ~~Dismantle~~ dismantle any electrical device or control other than to remove the covers of panelboard
6 enclosures; or
- 7 (4) Inspect:
- 8 (A) ~~Low~~ low voltage systems;
- 9 (B) ~~Security~~ security systems and heat detectors;
- 10 (C) ~~Telephone,~~ telephone, security, cable TV, intercoms, or other ancillary wiring that is not a
11 part of the primary electrical distribution system;
- 12 (D) ~~Built in~~ built-in vacuum equipment;
- 13 (E) ~~Back~~ back up electrical generating equipment;
- 14 (F) ~~Other~~ other alternative electrical generating or renewable energy systems such as solar,
15 wind, or hydro power;
- 16 (G) ~~Battery~~ battery or electrical automotive charging systems; ~~or~~
- 17 (H) ~~Electrical~~ electrical systems to swimming pools or spas, including bonding and ~~grounding,~~
18 ~~grounding;~~ or
- 19 (I) ~~Elevators~~ elevators or related equipment used for the purpose of transporting occupants
20 or materials between elevations.

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22 *History Note: Authority G.S. 143-151.49; 143-151.58;*

23 *Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15,*
24 *1996;*

25 *Temporary Adoption Eff. October 24, 1996;*

26 *Eff. July 1, 1998;*

27 *Amended Eff. September 1, 2013; February 1, 2007; April 1, 2005;*

28 *Readopted Eff. October 1, 2018.*

29 *Amended Eff. October 1, 2024.*

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1 11 NCAC 08 .1116 is amended with changes as published in 38:06 337-338 as follows:

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3 **11 NCAC 08 .1116 CODE OF ETHICS**

4 (a) Licensees shall discharge their duties with fidelity to the public and to their clients, with fairness and impartiality
5 to all.

6 (b) Opinions expressed by licensees shall be based only on their education, experience, and honest convictions.

7 (c) A licensee shall not disclose any information about the results of an inspection without the approval of the client
8 for whom the inspection was performed, or the client's ~~representative.~~ representative, unless the licensee finds that
9 public health, safety, or welfare imperatively requires immediate or emergency action.

10 (d) No licensee shall accept compensation or any other consideration from more than one interested party for the
11 same service without the written consent of all interested parties.

12 (e) No licensee or licensee's company shall compensate, either financially or through other services or benefits, realty
13 agents or other parties with a financial interest in closing or settlement of real estate transactions for the following:

14 (1) Referral of inspections; or

15 (2) Inclusion on a list of recommended inspectors or preferred providers.

16 This Rule also prohibits co-marketing or sharing of expenses between the licensee or licensee's company and realty
17 agents or other parties with a financial interest in closing or settlement of real estate transactions that obligates the
18 realty agents or other parties with a financial interest in closing or settlement of real estate transactions to include the
19 licensee or the licensee's company on preferred lists of providers. [However, nothing set forth in this Rule shall
20 prohibit a licensee or licensee's company from engaging in customary marketing activities of low monetary value,
21 such as providing food or beverages or other items, where the costs for such marketing activities are nominal, so
22 long as the marketing activities are not intended to be a form of compensation in exchange for recommendations for
23 referrals or placement on preferred lists of providers.]

24 (f) No licensee shall express, within the context of an inspection, an appraisal or opinion of the market value of the
25 inspected property.

26 (g) Before the execution of a contract to perform a home inspection, a licensee shall disclose to the client any interest
27 he or she has in a business that may create a conflict of interest for the home inspector or the client. No licensee shall
28 allow his or her interest in any business to affect the quality or results of the inspection work that the licensee may be
29 called upon to perform. The client must approve in writing the licensee's dissemination of personal information
30 [~~(including names, addresses, email addresses or phone numbers)~~] unrelated to the results of the home inspection to
31 any third parties, other than the Board.

32 (h) A licensee shall not solicit for repairs of systems or components found defective in the course of a home inspection
33 performed by the licensee or that licensee's company.

34 (i) Licensees shall not engage in false or misleading advertising or otherwise misrepresent any matters to the public.

35 (j) Licensees shall not inspect properties under contingent arrangements whereby any compensation or future referrals
36 are dependent on reported findings or on the sale of a property.

1 (k) A licensee shall not impugn the professional reputation or practice of another home inspector, nor criticize another
2 inspector's reports.

3 (l) ~~[Unless]~~ Licensees must obtain written permission ~~[is obtained]~~ from the ~~[appropriate party or parties,]~~ client or
4 clients ~~[the licensee shall not]~~ to sell, ~~[share]~~ share, or provide data or personal information ~~[such as names,~~
5 ~~addresses, email addresses, telephone numbers]~~ about the home inspection or the client or clients to third parties,
6 other than the ~~[Board,]~~Board. ~~[and shall "opt-out" of software programs that seek permission from the licensee to use~~
7 ~~such data or personal information obtained from home inspection.]~~

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9 *History Note: Authority G.S. 143-151.49;*
10 *Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15,*
11 *1996;*
12 *Temporary Adoption Eff. October 24, 1996;*
13 *Eff. July 1, 1998;*
14 *Amended Eff. May 1, 2013; October 1, 2010; July 1, 2000;*
15 *Readopted Eff. October 1, 2018.*
16 *Amended Eff. October 1, 2024.*

17

**Request for Changes Pursuant to
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency’s statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: “~~a~~Association”
 - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
 - Wrong: “day;; and”
 - Right: “~~day~~, day; and”
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Home Inspector Licensure Board

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: Tuesday, March 19, 2024.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In the History Note of each rule, please specify your effective date. Under the APA, the earliest possible date would be April 1, 2024, however, you may specify a later date if you so choose. **Done.***

*Throughout, whenever there is a list where the items taken together create a single sentence (such as in Rule .1103(b)(1)), the first word of each item should be lowercase. **Done.***

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Home Inspector Licensure Board

RULE CITATION: 11 NCAC 08 .1101

DEADLINE FOR RECEIPT: Tuesday, March 19, 2024.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

In (2), line 12, consider revising to "...unique to arcing and de-energizing the circuit..."
Done

In (5), line 21, delete the comma following "floor". **Done**

In (7), line 25, what is an "arrangement" between potable water and a source of contamination? **See below and we propose to substitute "contact" for "arrangement" to clarify.**

In (15), p.2, line 8, I believe you meant "nonpotable" instead of "nonportable". **Yes**

In (16), line 10, consider revising to "...protection of people that de-energizes a circuit..."
Done

In (17), line 12, add a comma following "eating". **Done.**

In (22), line 20, what water? Does this refer to "on-site well water" similar to (23)? **Yes and we've added this text to clarify.**

In (24), line 22, the systems should function as intended by whom? The manufacturer? The owner?

"Function as intended" is a term of art in the home inspection industry that does not require additional clarifying language to make its meaning clear to the regulated public. Additionally, the term is used in both the General Statutes and in other rules published in the NC Administrative Code. N.C.G.S. § 143-151.58(a1) provides: "...The summary page must describe any system or component of the home that does not function as intended, allowing for normal wear and tear that does not prevent the system or component from functioning as intended." Similarly, 21 NCAC 39 .1002 provides that on-site wastewater inspectors must submit a written report that

Brian Liebman
Commission Counsel

Date submitted to agency: March 5, 2024

“[s]tates any systems or components that do not function as intended or harm the wastewater treatment system.”

Other states also use the term in the same context proposed here. For example, Tennessee’s [Rule 0780-05-12-.10](#) provides that home inspectors must submit a written report that “[s]tate[s] any systems or components so inspected that do not function as intended, allowing for normal wear and tear, or adversely affect the habitability of the dwelling.” Additionally, Oregon’s [Rule 812-008-0202](#) requires home inspectors to submit written reports that “[s]tate whether any inspected systems or components do not function as intended, allowing for normal wear and tear; and how, if at all the habitability of the dwelling is affected.

These rules are a sampling of states that use the “function as intended” term of art that is commonly used in the home inspection industry and widely understood by the regulated public here in North Carolina.

In (34), p.3, line 13, what is “not associated” with the plumbing system? The water? Can’t a sump pump be used, for example, to catch and drain leaks from a hot water heater in someone’s basement? Done (removed “not associated with plumbing system”). Sump pumps are installed to keep basements from flooding – typically from groundwater or rainwater – but a compromised plumbing system such as a leaking water heater that could cause flooding could also be mitigated by a sump pump.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Home Inspector Licensure Board

RULE CITATION: 11 NCAC 08 .1103

DEADLINE FOR RECEIPT: Tuesday, March 19, 2024.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

In (b)(1)(C), can an inspection be only for one system? G.S. 143-151.45 defines a home inspection as “a written evaluation . . . of two or more of the following components of a residential building...” Yes, while the NCHILB Standards of Practice (SOP) define a home inspection as two or more systems or components, clients may contract for inspection of a single system (i.e. roof, plumbing, etc.) and if so the Home Inspector is still bound to provide a report (written evaluation) that complies with the SOP to state all the systems not inspected. Rule 1003 Persons and Practices Not Affected also “carves out” for other licensed professionals the ability to perform single system inspections without being in violation of the Board rules.

In (b)(3)(C), lines 24 and 25, function as intended by whom?

“Function as intended” is a term of art in the home inspection industry that does not require additional clarifying language to make its meaning clear to the regulated public. Additionally, the term is used in both the General Statutes and in other rules published in the NC Administrative Code. N.C.G.S. § 143-151.58(a1) provides: “...The summary page must describe any system or component of the home that does not function as intended, allowing for normal wear and tear that does not prevent the system or component from functioning as intended.” Similarly, 21 NCAC 39 .1002 provides that on-site wastewater inspectors must submit a written report that “[s]tates any systems or components that do not function as intended or harm the wastewater treatment system.”

Other states also use the term in the same context proposed here. For example, Tennessee’s Rule 0780-05-12-.10 provides that home inspectors must submit a written report that “[s]tate[s] any systems or components so inspected that do not function as intended, allowing for normal wear and tear, or adversely affect the habitability of the dwelling.” Additionally, Oregon’s Rule 812-008-0202 requires home inspectors to submit written reports that “[s]tate whether any inspected systems or components do not function as intended, allowing for normal wear and tear; and how, if at all the habitability of the dwelling is affected.

Brian Liebman
Commission Counsel

Date submitted to agency: March 5, 2024

These rules are a sampling of states that use the “function as intended” term of art that is commonly used in the home inspection industry and widely understood by the regulated public here in North Carolina.

Why is (c) necessary? It seems that these items are not prohibited by this or any other rule or statute, so why is it necessary to add permissive language here?

The concern from the Board and from licensees is that without this permissive language, the public would be less protected.

See N.C.G.S § 143-151.58(a1) summary page requirements that specifically states what the summary page must or may include: “The summary page must describe any system or component of the home that does not function as intended, allowing for normal wear and tear that does not prevent the system or component from functioning as intended. The summary page must also describe any system or component that appears not to function as intended, based upon documented tangible evidence, and that requires either subsequent examination or further investigation by a specialist. **The summary page may describe any system or component that poses a safety concern.**”(emphasis added).

See 11 NCAC 08 .1116 (c) proposed rule change in this submission.

11 NCAC 08 .1116 (c) states: “A licensee shall not disclose any information about the results of an inspection without the approval of the client for whom the inspection was performed, or the client's representative, representative unless the licensee finds that public health, safety, or welfare imperatively requires immediate or emergency action.”

In addition, as to 11 NCAC 08 .1103(c)(2) a client may exclude certain systems or components – for example – a client who is going to redo a kitchen once purchased – may ask the home inspector to NOT inspect the kitchen.

The real estate industry was wary of inspectors causing undue alarm. This concern remains to this day. Also, if it were a mandatory obligation of licensees to report all safety concerns then their potential liability would increase. Contracts are with buyers, not owners and home inspectors cannot share the results of the inspections due to confidentiality set forth in 11 NCAC 08 .1116. As noted above, the concern from Board and licensee perspective is that without this permissive language, the public would be less protected. See 11 NCAC 08 .1116(c) proposed rule change in this submission.

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

Brian Liebman
Commission Counsel
Date submitted to agency: March 5, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Home Inspector Licensure Board

RULE CITATION: 11 NCAC 08 .1107

DEADLINE FOR RECEIPT: Tuesday, March 19, 2024.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*In (a)(3), line 11, add a comma following "operators". **Done.***

*In (b)(3), line 19, delete the "and" at the end of the line. **Done.***

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Home Inspector Licensure Board

RULE CITATION: 11 NCAC 08 .1109

DEADLINE FOR RECEIPT: Tuesday, March 19, 2024.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

In (d)(2), lines 28-29, why are there two separate concepts combined into one item? Consider breaking out everything after "or" into a new item. Done. A new (d)(3) has been created and the subdivision numbering has been updated.

In (d)(5)(H) and (I), p.2, lines 5 and 6, keep the "or" where it originally was. Done. Note that subdivision (d)(5) is now (d)(6).

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Home Inspector Licensure Board

RULE CITATION: 11 NCAC 08 .1110

DEADLINE FOR RECEIPT: Tuesday, March 19, 2024.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

In (d)(1), line 34, is a "central system" different than a "central alarm system" as used in (d)(2)? **No. Corrected by adding "alarm" to line 34.**

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

Brian Liebman
Commission Counsel
Date submitted to agency: March 5, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Home Inspector Licensure Board

RULE CITATION: 11 NCAC 08 .1116

DEADLINE FOR RECEIPT: Tuesday, March 19, 2024.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

In (a), line 8, what does it mean to discharge duties with “fidelity” and “fairness”? Please define these terms. The terms “fidelity” and “fairness” are used herein in their customary everyday context. The term “fairness” is also used in multiple other rules in the NC Administrative Code. For example, 21 NCAC 68 .0510 provides that “[t]he substance use disorder professional shall treat colleagues with respect, courtesy, and fairness and shall afford the same professional courtesy to other professionals” and 24 NCAC 03 .0704 provides that “[i]n the event such ex parte communication occurs, the Board or the hearing examiner may make such orders to take such action as fairness requires.” Moreover, 27 NCAC 02 Rule 3.4 of the North Carolina Rules of Professional Conduct is titled – without defining the term – “Fairness to Opposing Party and Counsel.”

Other states with codes of ethics for licensed home inspectors also use the terms “fidelity” and “fairness” in the same context proposed here. For example, Tennessee’s Rule 0780-05-12-11 provides that “[l]icensees shall discharge their duties with fidelity to the public, their clients, and with fairness and impartiality to all.”

If Commission Counsel determines that the terms “fidelity” and “fairness” are unavoidably ambiguous, the Board proposes revising the rule using the terms “faithfully,” “accurately,” and “impartially” such that the provision would read as follows: “Licensees shall discharge their duties faithfully, accurately, and impartially to the public and their clients.”

In (c), line 12, add a comma following “representative”. Done.

In (e), line 24, what is a “customary marketing activity”? This proposed rule change is in response to a proposed BILL DRAFT 2021-BG-2 [v.5] (see below). We propose to remove the term “customary” and add the word “reasonable”.

Brian Liebman
Commission Counsel

Date submitted to agency: March 5, 2024

In (e), line 24, what is the cutoff for “low” monetary value? This proposed rule change is in response to a proposed BILL DRAFT 2021-BG-2 [v.5] (see below).

| | |
|--|--|
| GENERAL ASSEMBLY OF NORTH CAROLINA | |
| SESSION 2021 | |
| H | D |
| BILL DRAFT 2021-BG-2 [v.5] | |
| (THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION) | |
| 04/06/2021 02:37:25 PM | |
| Short Title: | Home Insp. Licensee Ethics Modification. (Public) |
| Sponsors: | Representative Meyer. |
| Referred to: | |
| 1 | A BILL TO BE ENTITLED |
| 2 | AN ACT TO CLARIFY THE APPLICATION OF THE LICENSED HOME INSPECTOR |
| 3 | CODE OF ETHICS TO LOW MONETARY MEALS AND BEVERAGES. |
| 4 | The General Assembly of North Carolina enacts: |
| 5 | SECTION 1. G.S. 143-151.49 reads as rewritten: |
| 6 | "§ 143-151.49. Powers and responsibilities of Board. |
| 7 | (a) General. – The Board has the power to do all of the following: |
| 8 | ... |
| 9 | (2) Adopt and publish a code of ethics and standard of practice for persons |
| 10 | licensed under this Article. <u>A code of ethics shall not prevent a licensee from</u> |
| 11 | <u>providing low monetary value meals and beverages to realty agents, or other</u> |
| 12 | <u>parties with a financial interest in closing or settlement of real estate</u> |
| 13 | <u>transactions, as a normal and accepted part of business culture.</u> |
| 14 |" |
| 15 | SECTION 2. This act is effective when it becomes law. |

In (e), line 25, define “nominal”. This proposed rule change is in response to a proposed BILL DRAFT 2021-BG-2 [v.5] (see above).

But to the extent you have requested changes, in order to comply with your request, we have removed the following language:

“ [However, nothing set forth in this Rule shall prohibit a licensee or licensee’s company from engaging in customary marketing activities of low monetary value, such as providing food or beverages or other items, where the costs for such marketing activities are nominal, so long as the marketing activities are not intended to be a form of compensation in exchange for recommendations for referrals or placement on preferred lists of providers.]

In (g), line 34, delete the parentheses and incorporate the parenthetical material into the body of the Rule. Done.

In (l), p.2, line 6, who is the “appropriate” party?

Done. Changed by removing “appropriate party or parties” and put in the terms “client or clients.”

In (l), line 6, add a comma following “share”. **Done.**

In (l), line 7, delete the parentheses and incorporate the parenthetical material into the body of the Rule. **Done.**

In (l), line 8, what does it mean to “opt out”? Does this mean the licensee should not use the program? Or does it mean that the licensee should decline, when asked, for permission to share data and personal information? What if the software does not give the licensee the opportunity to “opt out”?

Made requested changes by:

(l) ~~Unless~~ Licensees must obtain written permission ~~[is obtained]~~ from the ~~[appropriate party or parties,]~~ client or clients ~~[the licensee shall not]~~ to sell, ~~[share]~~ share, or provide data or personal information ~~[such as names, addresses, email addresses, telephone numbers]~~ about the home inspection or the client or clients to third parties, other than the ~~[Board,]~~ Board. ~~[and shall “opt out” of software programs that seek permission from the licensee to use such data or personal information obtained from home inspection.]~~

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

Brian Liebman
Commission Counsel
Date submitted to agency: March 5, 2024

Burgos, Alexander N

Subject: FW: [External] REQUEST FOR EXTENSION OF PERIOD OF REVIEW RE: 11 NCAC 08 Requests for Changes - March 2024 RRC

From: Cleary, Gina <gcleary@NCDOJ.GOV>
Sent: Wednesday, March 27, 2024 4:10 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>; Hejduk, Mike <Mike.Hejduk@ncdoi.gov>
Cc: Benjamin, Alisha <alisha.benjamin@ncdoi.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ethridge, Courtney H <cethridge@ncdoj.gov>
Subject: RE: [External] REQUEST FOR EXTENSION OF PERIOD OF REVIEW RE: 11 NCAC 08 Requests for Changes - March 2024 RRC

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Hi Brian,

Thank you for sending along the letter.

It was nice to see you at the meeting today.

On behalf of the North Carolina Home Inspector Licensure Board, we look forward to working with you.

Sincerely,
Gina



Gina M. Von Oehsen Cleary
Special Deputy Attorney General
Insurance Section
Phone: (919) 716-6631
Email: gcleary@ncdoj.gov
Street Address: 114 W. Edenton St., Raleigh, NC 27603
Mailing Address: P.O. Box 629, Raleigh, NC 27602-0629
Website: WWW.NCDOJ.GOV

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From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Wednesday, March 27, 2024 2:54 PM
To: Cleary, Gina <gcleary@NCDOJ.GOV>; Hejduk, Mike <Mike.Hejduk@ncdoi.gov>
Cc: Benjamin, Alisha <alisha.benjamin@ncdoi.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ethridge, Courtney <Cethridge@ncdoj.gov>
Subject: RE: [External] REQUEST FOR EXTENSION OF PERIOD OF REVIEW RE: 11 NCAC 08 Requests for Changes - March 2024 RRC

Good afternoon, Gina,

Attached, please find a letter concerning the extension granted by the Commission at today's meeting. As always, if you have any questions, please let me know.

Best,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] REQUEST FOR EXTENSION OF PERIOD OF REVIEW RE: 11 NCAC 08 Requests for Changes - March 2024 RRC

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Thursday, March 14, 2024 3:15 PM
To: CLEARY, GINA M <gcleary@ncdoj.gov>; Hejduk, Mike <Mike.Hejduk@ncdoi.gov>
Cc: Benjamin, Alisha <alisha.benjamin@ncdoi.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ethridge, Courtney H <cethridge@ncdoj.gov>
Subject: RE: [External] REQUEST FOR EXTENSION OF PERIOD OF REVIEW RE: 11 NCAC 08 Requests for Changes - March 2024 RRC

Ms. Cleary,

Thanks for your request. I will recommend approval of your request at this month's meeting. If the Commission grants the extension, your responses would be due on either April 16, 2024 (for the April meeting) or May 14, 2024 (for the May meeting).

Best,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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From: Cleary, Gina <gcleary@NCDOJ.GOV>
Sent: Thursday, March 14, 2024 2:02 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>; Hejduk, Mike <Mike.Hejduk@ncdoi.gov>
Cc: Benjamin, Alisha <alisha.benjamin@ncdoi.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ethridge, Courtney H <cethridge@ncdoj.gov>
Subject: [External] REQUEST FOR EXTENSION OF PERIOD OF REVIEW RE: 11 NCAC 08 Requests for Changes - March 2024 RRC

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TO: BRIAN LIEBMAN ESQ., COMMISSION COUNSEL via electronic mail only

RE: Request for Extension for Period of Review by the North Carolina Home Inspector Licensure Board relating to the following proposed amendments to the following Rules:
11 NCAC 08 .1101, 11 NCAC 08 .1103, 11 NCAC 08 .1105, 11 NCAC 08 .07, 11 NCAC 08 1109, 11 NCAC 08 1110, and 11 NCAC 08 .1116

Dear Mr. Liebman,

I represent the North Carolina Home Inspector Licensure Board ("HILB"). The RRC has placed the above referenced proposed rule amendments on the RRC's agenda for the March 27, 2024 meeting.

On behalf of the HILB, I respectfully Request an Extension of the Period of Review pursuant to 26 NCAC 05 .0115 and North Carolina General Statutes § 150B-21.10(3). This extension is requested to allow for additional time to review and address responses to the technical changes/request for changes submitted to the HILB on March 5, 2024.

The HILB requests that the above referenced proposed rule amendments be placed on the **May 29, 2024** RRC's meeting agenda. It is my understanding that responses to the technical changes/change requests will be due mid-May.

Please feel free to contact me if you have any questions or concerns with our formal request.

Kindly confirm receipt of this Request for an Extension of the Period of Review at your earliest convenience.

Thank you very much.

Sincerely,

Gina M. Von Oehsen Cleary



Gina M. Von Oehsen Cleary

Special Deputy Attorney General

Insurance Section

Phone: (919) 716-6631

Email: gcleary@ncdoj.gov

Street Address: 114 W. Edenton St., Raleigh, NC 27603

Mailing Address: P.O. Box 629, Raleigh, NC 27602-0629

Website: WWW.NCDOJ.GOV

Please note messages to or from this address may be public records.

Burgos, Alexander N

From: Cleary, Gina <gcleary@NCDOJ.GOV>
Sent: Tuesday, March 5, 2024 5:01 PM
To: Liebman, Brian R; Hejduk, Mike
Cc: Benjamin, Alisha; Burgos, Alexander N
Subject: [External] RE: 11 NCAC 08 Requests for Changes - March 2024 RRC

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Thank you, Brian.
Best,
Gina



Gina M. Von Oehsen Cleary
Special Deputy Attorney General
Insurance Section
Phone: (919) 716-6631
Email: gcleary@ncdoj.gov
Street Address: 114 W. Edenton St., Raleigh, NC 27603
Mailing Address: P.O. Box 629, Raleigh, NC 27602-0629
Website: WWW.NCDOJ.GOV

Please note messages to or from this address may be public records.

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, March 5, 2024 4:55 PM
To: Hejduk, Mike <Mike.Hejduk@ncdoi.gov>
Cc: Cleary, Gina <gcleary@NCDOJ.GOV>; Benjamin, Alisha <alisha.benjamin@ncdoi.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 11 NCAC 08 Requests for Changes - March 2024 RRC

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Board for the March 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, March 27, 2024, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Tuesday, March 19, 2024.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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