

Burgos, Alexander N

Subject: FW: [External] April 30, 2024 Obj. to Sec. R402 and Apepndix R1.2.1 of 2024 N.C. Energy Conservation Code

Attachments: 2024.06.21 NDC Ltr to B. Liebman re RRC Obj. to Sec. R402 and App. R1.2.1, 2024 NCECC.pdf

From: Childs, Nathan <nchilds@ncdoj.gov>
Sent: Friday, June 21, 2024 5:28:20 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
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Dear Brian:

Pursuant to N.C. Gen. Stat. 150B-21.12, please see the attached correspondence addressing North Carolina Building Code Council's response to the Rules Review Commission's April 30, 2024 objection to Section R402 Building Thermal Envelope and Appendix R1.2.1 of the 2024 North Carolina Energy Conservation Code permanent rule.

Please contact me with any questions.

Have a good weekend,

Nathan



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June 21, 2024

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Rules Review Commission
1711 New Hope Church Road
Raleigh, N.C. 27609
Email: brian.liebman@oah.nc.gov
Via Email Only

**RE: April 30, 2024 Objection to Section R402 and Appendix R1.2.1 of
the 2024 North Carolina Energy Conservation Code**

Dear Mr. Liebman:

I serve as counsel to the North Carolina Building Code Council (BCC). At its April 30, 2024 meeting, the Rules Review Commission (RRC) objected to Section R402 *Building Thermal Envelope* (Sections R402.1-R402.6) and Appendix R1.2.1 of the 2024 North Carolina Energy Conservation Code permanent rule adopted by the BCC on December 12, 2023. The RRC approved all other sections and appendices of the 2024 North Carolina Energy Conservation Code rule.

Pursuant to N.C. Gen. Stat. § 150B-21.10, the Commission objected to the rule on the grounds set out in the RRC Opinion Letter dated April 26, 2024 addressing Section R402 and Appendix R1.2.1. The Opinion Letter contends that the BCC's statutory authority to promulgate amendments to Section R402 and Appendix R1.2.1 was divested by Section 6.(b) of North Carolina Session Law 2023-108, effective August 16, 2023. Section 6.(b) requires that the BCC amend "R402 Rules" to include use of air-impermeable insulation as an "optional alternative" in unvented attic and unvented enclosed rafter assemblies.

Pursuant to N.C. Gen. Stat. § 150B-21.12(a)(1), the BCC considered the Commission's objection at its June 11, 2024 scheduled meeting. Per our discussions, the only change to Section R402 and Appendix R1.2.1 that would

Mr. Brian Liebman
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satisfy the RRC's objection would be the addition of the "optional alternative" for use of air-impermeable insulation in unvented attic and unvented enclosed rafter assemblies. Per our discussions, such changes could likely be viewed as "substantial" under the standards set forth in N.C. Gen. Stat. § 150B-21.2(g) and, therefore, subject to additional public comment and rulemaking.

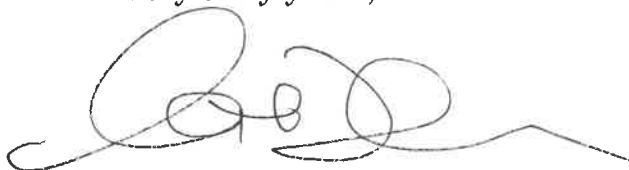
Accordingly, the BCC has decided to promulgate a new rule replacing and amending Section R402 Building Thermal Envelope and Appendix R1.2.1 of the 2024 North Carolina Energy Conservation Code to comply with Section 6.(b) of N.C. Session Law 2023-108. That proposed rule was approved by the BCC at its June 11, 2024 meeting and will be subject to public hearing in September 2024.

Pursuant to N.C. Gen. Stat. § 150B-21.12, the BCC requests that only Section R402 and Appendix R1.2.1 of the 2024 North Carolina Energy Conservation Code permanent rule be returned to the BCC.

Please contact me with any questions.

With best regards, I am

Very truly yours,

A handwritten signature in dark ink, appearing to read 'N. Childs', with a long horizontal flourish extending to the right.

Nathan D. Childs
Assistant Attorney General

cc: Bridget Herring, Chair of North Carolina Building Code Council (*via email*)
David Rittlinger, P.E., Division Chief, Codes and Interpretations, North
Carolina Office of State Fire Marshal (*via email*)
Kyle Heuser, Assistant General Counsel, North Carolina Office of State Fire
Marshal (*via email*)
Dan Dittman, Systems Group Supervisor, North Carolina Office of State Fire
Marshal (*via email*)