

## Burgos, Alexander N

---

**From:** Liebman, Brian R  
**Sent:** Thursday, February 2, 2023 12:22 PM  
**To:** Rittlinger, David B  
**Cc:** Childs, Nathan D; Burgos, Alexander N; Ascher, Seth M  
**Subject:** Building Code Permanent and Temp Rules Request for Changes - February 2023 RRC  
**Attachments:** 02.2023 - 2020 NC Electrical Code.docx; 02.2023 - 2018 NC Res Code, NC Energy Code Temp Rule Request for Changes.docx

Good afternoon,

I'm the attorney who reviewed both the permanent and temporary Rules submitted by the Building Code Council for the February 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, February 16, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite 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 evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, February 10, 2023.

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

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

## Burgos, Alexander N

---

**Subject:** FW: Changes to 2018 Fire Code, Plumbing Code, and Residential Code  
**Attachments:** D-6 20220614 Item B-6 2018 North Carolina Residential Code Table P2906.4 Rev 1. Form\_0400\_for\_Permanent\_Rule\_December\_2022.pdf; D-2 20220614 Item B-1 2018 North Carolina Fire Code Section D107.1 Rev 1. Form\_0400\_for\_Permanent\_Rule\_December\_2022.docx; D-2 20220614 Item B-1 2018 North Carolina Fire Code Section D107.1 Rev 1. Form\_0400\_for\_Permanent\_Rule\_December\_2022.pdf; D-3 20220614 Item B-2 2018 North Carolina Fire Code Section D107.2 Remoteness Rev 1. Form\_0400\_for\_Permanent\_Rule\_December\_2022.docx; D-3 20220614 Item B-2 2018 North Carolina Fire Code Section D107.2 Remoteness Rev 1. Form\_0400\_for\_Permanent\_Rule\_December\_2022.pdf; D-5 20220614 Item B-5 2018 North Carolina Plumbing Code Table 605.3 Rev 1. Form\_0400\_for\_Permanent\_Rule\_December\_2022.docx; D-5 20220614 Item B-5 2018 North Carolina Plumbing Code Table 605.3 Rev 1. Form\_0400\_for\_Permanent\_Rule\_December\_2022.pdf; D-6 20220614 Item B-6 2018 North Carolina Residential Code Table P2906.4 Rev 1. Form\_0400\_for\_Permanent\_Rule\_December\_2022.docx

---

**From:** Rittlinger, David B <[david.rittlinger@ncdoi.gov](mailto:david.rittlinger@ncdoi.gov)>  
**Sent:** Thursday, February 2, 2023 9:27 AM  
**To:** Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>  
**Cc:** Childs, Nathan D <[nchilds@NCDOJ.GOV](mailto:nchilds@NCDOJ.GOV)>; Snyder, Ashley B <[ashley.snyder@oah.nc.gov](mailto:ashley.snyder@oah.nc.gov)>; Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Subject:** RE: Changes to 2018 Fire Code, Plumbing Code, and Residential Code

Good morning OAH,  
I hope you are well.

Attached are 4 amended permanent rule submissions for rules adopted by the North Carolina Building Code Council on 12/13/22.  
These four permanent rule submissions are subject to legislative review and are exempt from review by the Rule Review Commission.

Please let me know if you have any questions or require further revisions to these documents.  
Thank you for your work on this.  
Have a great day

David B. Rittlinger, PE, LEED AP  
Code Interpretations Supervisor  
Chief Code Consultant  
Chief Mechanical & Fuel Gas Code Consultant  
Engineering Division



N.C. Department of Insurance  
Office of State Fire Marshal  
1202 Mail Service Center  
Raleigh, NC 27699-1202  
919.647.0008

[david.rittlinger@ncdoi.gov](mailto:david.rittlinger@ncdoi.gov)

Link to free view of 2018 NC Codes  
<https://codes.iccsafe.org/codes/north-carolina>

---

**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Sent:** Wednesday, February 1, 2023 3:49 PM  
**To:** Rittlinger, David B <[david.rittlinger@ncdoi.gov](mailto:david.rittlinger@ncdoi.gov)>  
**Cc:** Childs, Nathan D <[nchilds@NCDOJ.GOV](mailto:nchilds@NCDOJ.GOV)>; Snyder, Ashley B <[ashley.snyder@oah.nc.gov](mailto:ashley.snyder@oah.nc.gov)>  
**Subject:** Changes to 2018 Fire Code, Plumbing Code, and Residential Code

Hi David and Nathan,

I've been reviewing the rules submitted to RRC by the Building Code Council for this month, and I've discovered some interesting language in the session laws that prompted these changes. Specifically, I'm referring to these rules:

2018 NC Fire Code, Section D107.1 (SL 2021-121, s. 6.(c))  
2018 NC Fire Code, Section D107.2 (SL 2021-183, s. 3.(c))  
2018 NC Plumbing Code, Table 605.3 Water Service Pipe (SL 2021-121, s. 7.(b), (c), and (d)).  
2018 NC Residential Code Table P2906.4 Water Service Pipe (SL 2021-121, s. 7.(b), (c), and (d)).

If you look at the relevant session laws, the BCC is directed to make specific amendments and then is instructed:

"Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2)."

Part 3 of Article 2A of Chapter 150B refers to the RRC review process, so the GA is directing that these rule changes are not subject to RRC review. On the other hand, G.S. 150B-21.3(b1) and (b2) are the APA's legislative review provisions. The GA is saying that RRC will not review these rule changes, but that the changes will become effective with a delayed effective date as if RRC had received 10 letters of objection. However, under (b1) and (b2), the exact effective date depends on what the legislature does after the rules are referred for review. If the legislature does nothing, they become effective on the 31<sup>st</sup> legislative day. If a bill specifically disapproving the rules is introduced, the rules would become effective on the earlier of the date the bill was voted down or the date the legislature adjourns without a vote on the bill.

So, because the Codifier of Rules is responsible for sending rules subject to legislative review to the legislature, I've copied her here. It's my understanding these rules will be included in the next package of rules sent to the legislature, where they may be reviewed following the start of the 2024 short session.

In light of the relevant SL language, I would suggest withdrawing these rules from RRC review, and resubmitting with the proper boxes on the Submission of Permanent Rule forms checked. Box 4 asks whether the Rule is exempt from RRC review and for the applicable authority. Box 5 asks whether the rule is automatically subject to legislative review and again for the applicable authority. That way, these will be properly classified by the Codifier's staff.

To be clear, we're continuing to review 2018 NC Fire Code Sections 510.4.2, 510.5, 510.5.4, and Chapter 80, as well as 2020 Electrical Code Article 100 Definitions. We're also still reviewing the temporary rule submitted, as the session laws there (2022-6 and 2022-46) do not contain the same operative language.

Please let me know if you have further questions or concerns.

Best,  
Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings

(984)236-1948


[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

# SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency: NC Building Code Council</b>	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 2018 NC Fire Code, Section D107.1 One-or two-family dwelling residential developments (220614 Item B-1)	
<b>3. Action:</b> <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTIOIN <input type="checkbox"/> REPEAL through READOPTIOIN	
<b>4. Rule exempt from RRC review?</b> <input checked="" type="checkbox"/> Yes. Cite authority: <input type="checkbox"/> No	<b>5. Rule automatically subject to legislative review?</b> <input checked="" type="checkbox"/> Yes. Cite authority: <input type="checkbox"/> No
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> Notice of Text published on: July 15, 2022 Link to Agency notice: <a href="https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notice">https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notice</a> Hearing on: September 13, 2022 Adoption by Agency on: December 13, 2022 <input type="checkbox"/> <b>Notice not required under G.S.:</b> Adoption by Agency on:	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b>  <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority:  <input checked="" type="checkbox"/> No	<b>8. Fiscal impact. Check all that apply.</b>  <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
<b>9. REASON FOR ACTION</b>	
<b>9A. What prompted this action? Check all that apply:</b> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: 2021-121, SECTION 6.(c) <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
<b>9B. Explain:</b> Session Law 2021-121 SECTION 6.(c)  The delayed effective date of this Rule is January 1, 2025. The Statutory authority for Rule-making is G. S. 143-136; 143-138.	
<b>10. Rulemaking Coordinator: David B. Rittlinger</b> David B. Rittlinger Phone: (919)647-0008 E-Mail: david.rittlinger@ncdoi.gov  <b>Additional agency contact, if any:</b> Phone: E-Mail:	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>    *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: David B. Rittlinger Title: Chief Code Consultant
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>  <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 type="checkbox"/> Other:	

# SUBMISSION FOR PERMANENT RULE

2018 NC Fire Code

Section D107.1 One- or two-family dwelling residential developments (220614 Item B-1)


## **D107.1 One- or two-family dwelling residential developments.**

Developments of one- or two-family dwellings where the number of *dwelling units* exceeds ~~30~~ 100 shall be provided with two separate and *approved* fire apparatus access roads.

### **Exceptions:**

1. Where there are more than 30 100 *dwelling units* on a single public or private fire apparatus access road and all *dwelling units* are equipped throughout with an *approved automatic sprinkler system* in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3 of the *International Fire Code*, access from two directions shall not be required.

# SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency: NC Building Code Council</b>	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 2018 NC Fire Code, Section D107.2 Remoteness (220614 Item B-2)	
<b>3. Action:</b> <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTIOIN <input type="checkbox"/> REPEAL through READOPTIOIN	
<b>4. Rule exempt from RRC review?</b> <input checked="" type="checkbox"/> Yes. Cite authority: <input type="checkbox"/> No	<b>5. Rule automatically subject to legislative review?</b> <input checked="" type="checkbox"/> Yes. Cite authority: <input type="checkbox"/> No
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> Notice of Text published on: July 15, 2022 Link to Agency notice: <a href="https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notice">https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notice</a> Hearing on: September 13, 2022 Adoption by Agency on: December 13, 2022 <input type="checkbox"/> <b>Notice not required under G.S.:</b> Adoption by Agency on:	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b> <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	<b>8. Fiscal impact. Check all that apply.</b> <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
<b>9. REASON FOR ACTION</b>	
<b>9A. What prompted this action? Check all that apply:</b> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: 2021-183, SECTION 3.(c) <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
<b>9B. Explain:</b> Session Law 2021-183 SECTION 3.(c)  The delayed effective date of this Rule is January 1, 2025. The Statutory authority for Rule-making is G. S. 143-136; 143-138.	
<b>10. Rulemaking Coordinator: David B. Rittlinger</b> David B. Rittlinger Phone: (919)647-0008 E-Mail: david.rittlinger@ncdoi.gov  <b>Additional agency contact, if any:</b> Phone: E-Mail:	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>    *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: David B. Rittlinger Title: Chief Code Consultant
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b> <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 type="checkbox"/> Other:	

# SUBMISSION FOR PERMANENT RULE


2018 NC Fire Code  
Section D107.2 Remoteness (220614 Item B-2)

**D107.2 Remoteness.** Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.

**Exception:** For developments where compliance is technically infeasible because of road connectivity limitations, real property dimensions or limitations, real property acquisition constraints, or environmental constraints, as determined by the property owner or developer, the *fire code official* shall either not require two fire apparatus access roads or allow for alterations that provide for fire apparatus access road remoteness to the maximum extent technically feasible.



# SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency: NC Building Code Council</b>	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 2018 NC Plumbing Code, Table 605.3 Water Service Pipe (220614 Item B-5)	
<b>3. Action:</b> <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTIOIN <input type="checkbox"/> REPEAL through READOPTIOIN	
<b>4. Rule exempt from RRC review?</b> <input checked="" type="checkbox"/> Yes. Cite authority: <input type="checkbox"/> No	<b>5. Rule automatically subject to legislative review?</b> <input checked="" type="checkbox"/> Yes. Cite authority: <input type="checkbox"/> No
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> Notice Required Notice of Text published on: July 15, 2022 Link to Agency notice: <a href="https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notice">https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notice</a> Hearing on: September 13, 2022 Adoption by Agency on: December 13, 2022 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b>  <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority:  <input checked="" type="checkbox"/> No	<b>8. Fiscal impact. Check all that apply.</b>  <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
<b>9. REASON FOR ACTION</b>	
<b>9A. What prompted this action? Check all that apply:</b> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: 2021-121, Sections 7.(b), 7.(c) and 7.(d) <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
<b>9B. Explain:</b> C900 pipe was approved for water service use when House Bill 489, Session Law 2021-121 was signed into law. Refer to Sections 7.(b), 7.(c) and 7.(d).  The delayed effective date of this Rule is January 1, 2024. The Statutory authority for Rule-making is G. S. 143-136; 143-138.	
<b>10. Rulemaking Coordinator: David B. Rittlinger</b> David B. Rittlinger Phone: (919)647-0008 E-Mail: david.rittlinger@ncdoi.gov  <b>Additional agency contact, if any:</b> Phone: E-Mail:	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>    *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: David B. Rittlinger Title: Chief Code Consultant
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>  <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 type="checkbox"/> Other:	


# SUBMISSION FOR PERMANENT RULE

2018 NC Plumbing Code

Table 605.3 Water Service Pipe (220614 Item B-5)

Polyvinyl chloride (PVC) plastic pipe	ASTM D 1785; ASTM D 2241; ASTM D 2672; CSA B137.3; <u>ANSI/AWWA C900</u>
---------------------------------------	-----------------------------------------------------------------------------

# SUBMISSION FOR PERMANENT RULE

<b>1. Rule-Making Agency: NC Building Code Council</b>	
<b>2. Rule citation &amp; name (name not required for repeal):</b> 2018 NC Residential Code, Table P2906.4 Water Service Pipe (220614 Item B-6)	
<b>3. Action:</b> <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL <input type="checkbox"/> READOPTION <input type="checkbox"/> REPEAL through READOPTION	
<b>4. Rule exempt from RRC review?</b> <input checked="" type="checkbox"/> Yes. Cite authority: <input type="checkbox"/> No	<b>5. Rule automatically subject to legislative review?</b> <input checked="" type="checkbox"/> Yes. Cite authority: <input type="checkbox"/> No
<b>6. Notice for Proposed Rule:</b> <input checked="" type="checkbox"/> <b>Notice Required</b> Notice of Text published on: July 15, 2022 Link to Agency notice: <a href="https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notice">https://www.ncosfm.gov/codes/building-code-council-bcc/bcc-hearing-notice</a> Hearing on: September 13, 2022 Adoption by Agency on: December 13, 2022 <input type="checkbox"/> <b>Notice not required under G.S.:</b> Adoption by Agency on:	
<b>7. Rule establishes or increases a fee? (See G.S. 12-3.1)</b>  <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority:  <input checked="" type="checkbox"/> No	<b>8. Fiscal impact. Check all that apply.</b>  <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
<b>9. REASON FOR ACTION</b>	
<b>9A. What prompted this action? Check all that apply:</b> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input checked="" type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: 2021-121, Sections 7.(b), 7.(c) and 7.(d) <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
<b>9B. Explain:</b> C900 pipe was approved for water service use when House Bill 489, Session Law 2021-121 was signed into law. Refer to Sections 7.(b), 7.(c) and 7.(d).  The delayed effective date of this Rule is January 1, 2025. The Statutory authority for Rule-making is G. S. 143-136; 143-138.	
<b>10. Rulemaking Coordinator: David B. Rittlinger</b> David B. Rittlinger Phone: (919)647-0008 E-Mail: david.rittlinger@ncdoi.gov  <b>Additional agency contact, if any:</b> Phone: E-Mail:	<b>11. Signature of Agency Head* or Rule-making Coordinator:</b>    *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: David B. Rittlinger Title: Chief Code Consultant
<b>RRC AND OAH USE ONLY</b>	
<b>Action taken:</b>  <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 type="checkbox"/> Other:	

# SUBMISSION FOR PERMANENT RULE

2018 NC Residential Code  
Table P2906.4 Water Service Pipe (220614 Item B-6)

Polyvinyl chloride (PVC) plastic pipe	ASTM D 1785; ASTM D 2241; ASTM D 2672; CSA B137.3; <u>ANSI/AWWA C900</u>
---------------------------------------	-----------------------------------------------------------------------------

## Burgos, Alexander N

---

**Subject:** FW: Changes to 2018 Fire Code, Plumbing Code, and Residential Code

---

**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Sent:** Thursday, February 2, 2023 10:01 AM  
**To:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** FW: Changes to 2018 Fire Code, Plumbing Code, and Residential Code

Forgot to copy you, sorry.

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

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

---

**From:** Liebman, Brian R  
**Sent:** Wednesday, February 1, 2023 3:49 PM  
**To:** Rittlinger, David B <[david.rittlinger@ncdoi.gov](mailto:david.rittlinger@ncdoi.gov)>  
**Cc:** Childs, Nathan D; Snyder, Ashley B <[ashley.snyder@oah.nc.gov](mailto:ashley.snyder@oah.nc.gov)>  
**Subject:** Changes to 2018 Fire Code, Plumbing Code, and Residential Code

Hi David and Nathan,

I've been reviewing the rules submitted to RRC by the Building Code Council for this month, and I've discovered some interesting language in the session laws that prompted these changes. Specifically, I'm referring to these rules:

2018 NC Fire Code, Section D107.1 (SL 2021-121, s. 6.(c))  
2018 NC Fire Code, Section D107.2 (SL 2021-183, s. 3.(c))  
2018 NC Plumbing Code, Table 605.3 Water Service Pipe (SL 2021-121, s. 7.(b), (c), and (d)).  
2018 NC Residential Code Table P2906.4 Water Service Pipe (SL 2021-121, s. 7.(b), (c), and (d)).

If you look at the relevant session laws, the BCC is directed to make specific amendments and then is instructed:

"Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2)."

Part 3 of Article 2A of Chapter 150B refers to the RRC review process, so the GA is directing that these rule changes are not subject to RRC review. On the other hand, G.S. 150B-21.3(b1) and (b2) are the APA's legislative review provisions. The GA is saying that RRC will not review these rule changes, but that the changes will become effective with a delayed effective date as if RRC had received 10 letters of objection. However, under (b1) and (b2), the exact effective date depends on what the legislature does after the rules are referred for review. If the legislature does nothing, they become effective on the 31<sup>st</sup> legislative day. If a bill specifically disapproving the rules is introduced, the rules would

become effective on the earlier of the date the bill was voted down or the date the legislature adjourns without a vote on the bill.

So, because the Codifier of Rules is responsible for sending rules subject to legislative review to the legislature, I've copied her here. It's my understanding these rules will be included in the next package of rules sent to the legislature, where they may be reviewed following the start of the 2024 short session.

In light of the relevant SL language, I would suggest withdrawing these rules from RRC review, and resubmitting with the proper boxes on the Submission of Permanent Rule forms checked. Box 4 asks whether the Rule is exempt from RRC review and for the applicable authority. Box 5 asks whether the rule is automatically subject to legislative review and again for the applicable authority. That way, these will be properly classified by the Codifier's staff.

To be clear, we're continuing to review 2018 NC Fire Code Sections 510.4.2, 510.5, 510.5.4, and Chapter 80, as well as 2020 Electrical Code Article 100 Definitions. We're also still reviewing the temporary rule submitted, as the session laws there (2022-6 and 2022-46) do not contain the same operative language.

Please let me know if you have further questions or concerns.

Best,  
Brian

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

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

---

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.