

Burgos, Alexander N

Subject: FW: Building Code Permanent and Temp Rules Request for Changes - February 2023 RRC
Attachments: 2022-0912 Duct Insulation Temporary Rule (RTF) (clean) Rev2.pdf.pdf; 20230113083746175.pdf; OAH Form 0500 - Insulating Ducting Temporary Rule (Jan. 26 2023).pdf

From: Rittlinger, David B <david.rittlinger@ncdoi.gov>
Sent: Thursday, February 2, 2023 4:48 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Childs, Nathan D <nchilds@NCDOJ.GOV>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: Building Code Permanent and Temp Rules Request for Changes - February 2023 RRC

Brian,
See attached corrections.

The commercial is SECTION 26.(b)
The residential is SECTION 26.(a)

Let me know if you have any questions or other comments.
Thank you for your work on this.

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

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

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Thursday, February 2, 2023 3:26 PM
To: Rittlinger, David B <david.rittlinger@ncdoi.gov>
Cc: Childs, Nathan D <nchilds@NCDOJ.GOV>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: Building Code Permanent and Temp Rules Request for Changes - February 2023 RRC

Hey David,

Thanks for sending these over. The permanent rules look fine, and I'll recommend approval. The temp rule, however, I think needs a final tweak. It's my understanding that the change to the Energy Conservation code was SL 2022-46 Section 26.(a), rather than (b). Can you confirm and fix if necessary?

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.

Burgos, Alexander N

Subject: FW: Building Code Permanent and Temp Rules Request for Changes - February 2023 RRC
Attachments: 20230113083746175.pdf; 2022-0912 Duct Insulation Temporary Rule (RTF) (clean) Rev1.pdf.pdf; OAH Form 0500 - Insulating Ducting Temporary Rule (Jan. 26 2023).pdf; D-1 20220315 Item B-6 2020 North Carolina Electrical Code Article 100 Definitions Rev 1. Form_0400_for_Permanent_Rule_December_2022.pdf; D-1 20220315 Item B-6 2020 North Carolina Electrical Code Article 100 Definitions Rev 1. Form_0400_for_Permanent_Rule_December_2022.docx

From: Rittlinger, David B <david.rittlinger@ncdoi.gov>

Sent: Thursday, February 2, 2023 2:09 PM

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

Cc: Childs, Nathan D <nchilds@NCDOJ.GOV>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>

Subject: RE: Building Code Permanent and Temp Rules Request for Changes - February 2023 RRC

Brian,

Good afternoon.

Attached are the requested rule changes.

Let me know if you have any questions or further comments.

Thank you for your work on this.

David B. Rittlinger, PE, LEED AP
Code Interpretations Supervisor
Chief Code Consultant
Chief Mechanical & Fuel Gas Code Consultant
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TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

| |
|---|
| 1. Rule-Making Agency: North Carolina Building Code Council |
| 2. Rule citation & name: Section N1103.3.1 of the 2018 N.C. Residential Code for One- and Two-Family Dwellings; Sections R403.3.1 and C403.2.9 of N.C. Energy Code |
| 3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal |
| 4. Was this an Emergency Rule: <input type="checkbox"/> Yes Effective date: <input checked="" type="checkbox"/> No |
| 5. Provide dates for the following actions as applicable: <ul style="list-style-type: none"> a. Proposed Temporary Rule submitted to OAH: 27 October 2022 b. Proposed Temporary Rule published on the OAH website: 27 October 2022 c. Public Hearing date: 13 December 2022 d. Comment Period: 27 October 2022 to 13 December 2022 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 27 October 2022 f. Adoption by agency on: 13 December 2022 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: |
| 6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <ul style="list-style-type: none"> <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: N.C. Sess. L. 2022-6 (ss. 20.10.(c), 201.10A.(c)); N.C. Sess. L. 2022-46 (ss. 26.(a), 26.(b)) Effective date: N.C. Sess. L. 2022-6 (eff. March 17, 2022); N.C. Sess. L. 2022-46 (eff. July 7, 2022) <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> Other: <p>Explain:</p> <p>Through the enactment of N.C. Sess. L. 2022-6, the General Assembly directed the North Carolina Building Code Council to adopt a temporary rule amending Section N1103.3.1 of the 2018 North Carolina Residential Code for One- and Two- Family Dwellings (See Section 20.10.(c) of N.C. Sess. L. 2022-6 (eff. 3/17/2022) and Section 26.(a) of N.C. Sess. L. 2022-46 (eff. 7/7/2022) and amending Sections C403.2.9 and R403.3.1 of the 2018 North Carolina Energy Conservation Code (See Section 20.10A.(c) of N.C. Sess. L. 2022-6 (eff. 3/17/2022) and Section 26.(b) of N.C. Sess. L. 2022-46 (eff. 7/7/2022, "applies retroactively to March 17, 2022.")). Pursuant to Section 20.10B.(a) of N.C. Sess. L. 2022-6, "[n]otwithstanding G.S. 150B-21.1(d), temporary rules adopted by the Council pursuant to Section 20.10 and Section 20.10A shall expire two years after the date this section becomes law." Section 20.10B of N.C. Sess. L. 2022-6 became law on 17 March 2022. Accordingly, this temporary rule will expire 17 March 2024.</p> |

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

In this case, the General Assembly has expressed its intent that the North Carolina Building Code Council forgo the procedures required for adoption of a permanent rule and has instead required that the North Carolina Building Code Council "adopt temporary rules to amend" Section N1103.3.1 of the 2018 North Carolina Residential Code for One- and Two-Family Dwellings and Sections C403.2.9 and R403.3.1 of the 2018 North Carolina Energy Conservation Code in Sections 20.10.(c) and 20.10A.(c) of N.C. Sess. L. 2022-6 and Sections 26.(a) and 26.(b) of N.C. Sess. L. 2022-46.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

No

9. Rule-making Coordinator:

David Rittlinger

Phone:

(919)647-0008

E-Mail:

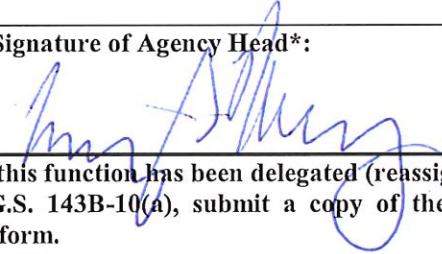
david.rittlinger@ncdoi.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:


* 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:

Bridget Herring

Title:

Chair, North Carolina Building Code Council

E-Mail: herring.ncbcc@gmail.com

RULES REVIEW COMMISSION USE ONLY

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**TEMPORARY RULE-MAKING
FINDINGS OF NEED**
[Authority G.S. 150B-21.1]

OAH USE ONLY
VOLUME:
ISSUE:

| |
|--|
| 1. Rule-Making Agency: North Carolina Building Code Council |
| 2. Rule citation & name: Section N1103.3.1 of the 2018 N.C. Residential Code for One- and Two-Family Dwellings; Sections R403.3.1 and C403.2.9 of N.C. Energy Code |
| 3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal |
| 4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date: |
| 5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: 27 October 2022 b. Proposed Temporary Rule published on the OAH website: 27 October 2022 c. Public Hearing date: 13 December 2022 d. Comment Period: 27 October 2022 to 13 December 2022 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 27 October 2022 f. Adoption by agency on: 13 December 2022 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: |
| 6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: N.C. Sess. L. 2022-6 (ss. 20.10.(c), 201.10A.(c)); N.C. Sess. L. 2022-46 (ss. 26.(a), 26.(b)) Effective date: N.C. Sess. L. 2022-6 (eff. March 17, 2022); N.C. Sess. L. 2022-46 (eff. July 7, 2022) <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> Other: |
| Explain: Through the enactment of N.C. Sess. L. 2022-6, the General Assembly directed the North Carolina Building Code Council to adopt a temporary rule amending Section N1103.3.1 of the 2018 North Carolina Residential Code for One- and Two- Family Dwellings (See Section 20.10.(c) of N.C. Sess. L. 2022-6 (eff. 3/17/2022) and Section 26.(a) of N.C. Sess. L. 2022-46 (eff. 7/7/2022) and amending Sections C403.2.9 and R403.3.1 of the 2018 North Carolina Energy Conservation Code (See Section 20.10A.(c) of N.C. Sess. L. 2022-6 (eff. 3/17/2022) and Section 26.(b) of N.C. Sess. L. 2022-46 (eff. 7/7/2022, "applies retroactively to March 17, 2022.")). Pursuant to Section 20.10B.(a) of N.C. Sess. L. 2022-6, "[n]otwithstanding G.S. 150B-21.1(d), temporary rules adopted by the Council pursuant to Section 20.10 and Section 20.10A shall expire two years after the date this section becomes law." Section 20.10B of N.C. Sess. L. 2022-6 became law on 17 March 2022. Accordingly, this temporary rule will expire 17 March 2024. |

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8. Rule establishes or increases a fee? (See G.S. 12-3.1)

Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

No

9. Rule-making Coordinator:

David Rittlinger

Phone:

(919)647-0008

E-Mail:

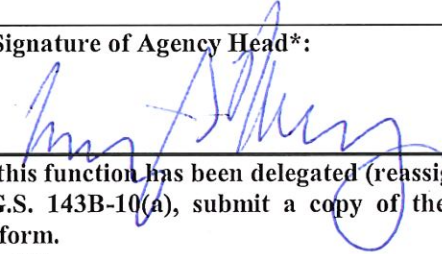
david.rittlinger@ncdoi.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:


* 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:

Bridget Herring

Title:

Chair, North Carolina Building Code Council

E-Mail: herring.ncbcc@gmail.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

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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 invites 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.

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