

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: Adoption Amendment Repeal		
4. Was this an Emergency Rule: Yes 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.		
A serious and unforeseen threat to the public health, safety or welfare.		
X 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)		
A recent change in federal or state budgetary policy.		
Effective date of change:		
A recent federal regulation. Cite:		
Effective date:		
A recent court order.		
Cite order:		
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.		

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the public is required?		
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 teporary 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	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.	
Agency contact, if any:	Typed Name:	
Phone:	Bridget Herring Title: Chair, North Carolina Building Code Council	
E-Mail:	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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2018 NC Energy Conservation Code:

C403.2.9 Duct and Plenum Insulation and Sealing.

Supply and return air ducts and plenums shall be insulated with a minimum of R-6 insulation where located in unconditioned spaces inside the building. Where located outdoors, supply and return ducts shall be insulated with a minimum of R-8 insulation in *Climate Zones* 3 and 4 and a minimum of R-12 insulation in *Climate Zone* 5. Where located within a building envelope assembly, such as a wall of the building thermal envelope, the duct or plenum shall be separated from the building exterior or unconditioned space by a minimum of R-8 insulation in *Climate Zones* 3 and 4 and a minimum of R-8 insulation in *Climate Zones* 5.

Commercial Spaces Insulation Rule per N.C. Session Law 2022-6 Section 20.10A.(c) expires 3/17/24

Supply and return air ducts located in ventilated or non- ventilated unconditioned spaces, other than attic spaces, shall be insulated with a minimum of R-4.0 insulation in Climate Zones 3 and 4 and a minimum of R-6.0 insulation in Climate Zone 5. Supply and return air ducts located in ventilated or non- ventilated unconditioned attic spaces shall be insulated to a minimum R-6.0.

Exception: Where located within equipment.

Ducts, air handlers and filter boxes shall be sealed. Joints and seams shall comply with Section 603.9 of the *International Mechanical Code*.

2018 NC Energy Conservation Code R403.3.1 Insulation (Mandatory).

Supply and return ducts in unconditioned space and outdoors shall be insulated to a minimum R-8. Supply ducts inside *semi- conditioned space* shall be insulated to a minimum R-4; return ducts inside conditioned and *semi-conditioned space* are not required to be insulated. Ducts located inside conditioned space are not required to be insulated other than as may be necessary for preventing the formation of condensation on the exterior of cooling ducts.

Residential Spaces Insulation Rule per N.C. Session Law 2022-6 Section 20.10 (c) expires 3/17/24

Supply and return air ducts located in ventilated or non-ventilated unconditioned spaces, other than attics, shall be insulated to a minimum R-4.2. Supply and return air ducts located in ventilated or non-ventilated unconditioned attic spaces shall be insulated to a minimum R-6.0.

2018 NC Residential Code:

N1103.3.1 (R403.3.1) Insulation (Mandatory). Supply and return ducts in unconditioned space and outdoors shall be insulated to a minimum R-8. Supply ducts inside *semi- conditioned space* shall be insulated to a minimum R-4; return ducts inside conditioned and *semi-conditioned space* are not required to be insulated. Ducts located inside conditioned space are not required to be insulated to be insulated other than as may be necessary for preventing the formation of condensation on the exterior of cooling ducts.

Residential Spaces Insulation Rule per N.C. Session Law 2022-6 Section 20.10 (c) expires 3/17/24

Supply and return air ducts located in ventilated or non-ventilated unconditioned spaces, other than attics, shall be insulated to a minimum R-4.2. Supply and return air ducts located in ventilated or non-ventilated unconditioned attic spaces shall be insulated to a minimum R-6.0.