

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

Please see attached.

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

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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.

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RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

Explain the Reason for Temporary Action

The Code Officials Qualification Board finds that temporary rulemaking is required to address a serious and unforeseen threat to the public health, safety, and welfare created by the current language of 11 NCAC 08 .0602(a)(4). That provision allows an applicant to qualify for a probationary Level III code enforcement certificate solely by passing a community college course examination, without satisfying the experience or comprehensive examination requirements otherwise established by the Board for Level I, II, or III standard certificates, and without first obtaining a Level I or Level II probationary certificate.

Under the existing rule, an individual who possesses only a high school diploma or equivalent and who has no prior inspection experience may obtain a probationary Level III certificate and immediately exercise the statutory powers of a code enforcement official. A Level III certificate authorizes inspection of complex and high-risk structures, including high-rise buildings, large assembly occupancies, and sophisticated mechanical, electrical, plumbing, and fire protection systems. These inspections require advanced technical knowledge and demonstrated competency in enforcing the North Carolina State Building Code.

Because G.S. 143-151.13 authorizes the holder of a probationary certificate to exercise the powers of a code enforcement official during the certificate's effective period, the current rule permits individuals who have not demonstrated adequate qualifications or competency to perform critical inspection duties affecting life safety. This circumstance presents a serious and unforeseen threat to the public health, safety, and welfare and requires immediate corrective action.

The Board did not anticipate, at the time of its most recent amendment to 11 NCAC 08 .0602(a)(4), that community colleges allow individuals to register for and complete a Level III inspector course without first completing Level I and Level II coursework or possessing relevant field experience. The Board's recent awareness of this practice revealed a regulatory gap that allows individuals to bypass the progressive qualification structure intended to ensure competency before performing advanced inspections. Temporary rulemaking is therefore necessary to promptly delete Subparagraph (a)(4) while the Board undertakes permanent rulemaking through the standard notice and hearing process.

Why Is Adherence to Notice and Hearing Requirements Contrary to the Public Interest and Why Is Immediate Adoption Required?

Adherence to the full notice and hearing requirements for permanent rulemaking would delay correction of the existing regulatory gap for several months. During that time, additional applicants could qualify for probationary Level III certificates under the current

rule and immediately exercise inspection authority over complex and high-risk buildings without first demonstrating sufficient experience or competency.

Issuance of a probationary Level III certificate under the existing language increases the risk that inspections of life-safety systems, structural elements, and fire protection features may be conducted by individuals who have not completed the progressive training and experience requirements established by the Board. Deficient inspections in such occupancies can result in undetected code violations, unsafe building conditions, and increased risk of injury, loss of life, and property damage.

Because probationary certificate holders are authorized by statute to perform inspections immediately upon issuance, the threat to public safety is ongoing and immediate. Waiting for completion of the permanent rulemaking process would allow the continued issuance of certificates under a rule that the Board has determined undermines the integrity of the State's building code enforcement system.

Accordingly, immediate adoption of the temporary rule is required to prevent further issuance of probationary Level III certificates based solely on passage of a single course examination and to preserve the public health, safety, and welfare while permanent rulemaking proceeds.

1 11 NCAC 08 .0602 is amended under temporary procedures with changes as follows:
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3 **11 NCAC 08 .0602 NATURE OF PROBATIONARY CERTIFICATE**

4 (a) A probationary certificate may be issued as a building inspector, electrical inspector, mechanical inspector,
5 plumbing inspector, or fire inspector, as set forth in the rule in this Chapter specific to the type of probationary
6 certificate being sought, to any newly employed or newly promoted code-enforcement official who lacks a standard
7 certificate that covers the new position. A probationary certificate shall be issued for three years and shall not be
8 renewed. During the three-year period, the official shall complete the requirements set forth in the rule in this Chapter
9 specific to the type of probationary certificate being sought to qualify for the appropriate standard certificate. A
10 probationary certificate shall authorize the official, during the effective period of the certificate, to hold the position
11 of the type, level, and jurisdiction specified. A probationary certificate may be placed on inactive status by upon
12 written ~~request,~~ request by the code-enforcement official. While on inactive status, the code-enforcement official shall
13 not administer nor enforce the State Building Code for the probationary certificate held. Once a probationary certificate
14 is placed on inactive status, the three-year effective period is tolled. The certificate shall be conditioned on the
15 applicant's completion of a high school diploma, or a high school equivalency certificate, and meeting one of the
16 following:

- 17 (1) working under supervision sufficient, as determined by a supporting letter provided for in 11 NCAC
18 08 .0706(b), to protect the public health and safety;
- 19 (2) possessing a minimum of one year of design, construction, or inspection experience working under
20 a certified inspector or under a licensed professional engineer, licensed architect, licensed
21 contractor, or registered interior designer; or
- 22 (3) possessing one of the education or experience qualifications listed in the rule in this Chapter specific
23 to the area of code enforcement for which the probationary certificate is ~~issued,~~ issued.
- 24 ~~(4) making a passing grade of at least 70 percent on courses for certification in building, electrical, fire,~~
25 ~~mechanical, or plumbing inspection at levels I, II, or III in each area of code enforcement for which~~
26 ~~the probationary certificate is issued.~~

27 (b) A probationary certificate as a residential changeout inspector set forth in 11 NCAC 08 .0734 may be issued to
28 any employed code-enforcement official, whose employment can be verified pursuant to 11 NCAC 08 .0734(d)(2),
29 who lacks a standard certificate as a residential changeout inspector and who successfully completes a residential
30 changeout inspections course set forth in 11 NCAC 08 .0734(c)(3). A probationary certificate shall be issued for three
31 years and shall not be renewed. During the three-year period, the official shall complete the requirements set forth in
32 the rules in this Chapter, specific to an area of code enforcement, to qualify for the corresponding standard certificate.
33 A probationary certificate as a residential changeout inspector shall authorize the inspector, during the effective period
34 of the certificate, to hold the position set forth in 11 NCAC 08 .0734(a). A probationary certificate may be placed on
35 inactive status by upon written ~~request,~~ request by the code-enforcement official. While on inactive status, the code-
36 enforcement official shall not administer nor enforce the State Building Code. Once a probationary certificate is placed
37 on inactive status, the three-year effective period is tolled. The probationary certificate shall be conditioned on the
38 applicant's completion of a high school diploma, or a high school equivalency certificate, and working under the direct

1 supervision of a person who possesses, or persons who collectively possess, standard certificates as an electrical
2 inspector III, mechanical inspector III, and plumbing inspector III, or an individual holding a residential changeout
3 inspector certificate and five years of code enforcement experience.

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5 *History Note: Authority G.S. 143-151.12(1); 143-151.12(2); 143-151.13;*
6 *Eff. June 28, 1979; Amended Eff. December 1, 1982;*
7 *Temporary Amendment Eff. January 1, 1983; For a Period of 120 Days to Expire on April 30, 1983;*
8 *Amended Eff. December 1, 2017; July 18, 2002; October 1, 1992; February 1, 1991; May 1, 1983;*
9 *Readopted Eff. July 1, 2019;*
10 *Amended Eff. February 1, 2025; August 1, ~~2020~~ 2020;*
11 *Temporary Amendment Eff. January 1, March 1, 2026.*