

Burgos, Alexander N

Subject: FW: 11 NCAC 08 .0602 (Temp Rule)

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Sent: Friday, February 20, 2026 9:11 AM

To: Heuser, Kyle <kyle.heuser@ncdoi.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Sorensen, Nicholas B <nsorensen@ncdoj.gov>; Julie B. Eddins <julie.eddins@oah.nc.gov>

Subject: RE: 11 NCAC 08 .0602 (Temp Rule)

Thank you. I am recommending approval of this Rule.

Alex,

I know you're off work today and I hope you enjoy. Please post the final revised version of this Rule and the Staff Opinion to the agenda upon your return.

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

From: Heuser, Kyle <kyle.heuser@ncdoi.gov>

Sent: Thursday, February 19, 2026 4:43 PM

To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Sorensen, Nicholas B <nsorensen@ncdoj.gov>

Subject: RE: 11 NCAC 08 .0602 (Temp Rule)

Good afternoon, Travis,

Thanks so much for your prompt review and response. Please find attached a final copy of the rule that addresses your technical change request by clarifying that it is the code-enforcement official who may make the written request for a certificate to be placed on inactive status. Please let me know if you have any additional questions or requests.

Thanks,
Kyle

Kyle Heuser
Assistant General Counsel



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1 11 NCAC 08 .0602 is amended under temporary procedures with changes as follows:
2

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.

4
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.*

Burgos, Alexander N

Subject: FW: 11 NCAC 08 .0602 (Temp Rule)
Attachments: 02_2026-Code Officials Qualification Board-Temporary Rules-Staff Opinion.docx

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Thursday, February 19, 2026 11:43 AM
To: Heuser, Kyle <kyle.heuser@ncdoi.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Sorensen, Nicholas B <nsorensen@ncdoj.gov>
Subject: RE: 11 NCAC 08 .0602 (Temp Rule)

Good morning, Kyle,

I have one request for technical changes (same request on lines 12 and 34). Please make clear *who* should make the written request to be placed on inactive status (I assume this should be done by the code-enforcement official).

I have attached a staff opinion recommending approval of the temporary rule. Please make the requested changes and reply all with the final version. We will post the Rule and Staff Opinion once we receive the final version.

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
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TEMPORARY RULE
RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Code Officials Qualifications Board

RULE CITATION: 11 NCAC 08 .0602

RECOMMENDED ACTION:

X Approve, but note staff's comment

Object, based on:

Lack of statutory authority

Unclear or ambiguous

Unnecessary

Failure to comply with the APA

COMMENT:

Staff recommends approval of the proposed temporary rule cited above. G.S. 150B-21.1(a) sets forth a two-part test to engage in temporary rulemaking: (1) adherence to the notice and hearing requirements of the permanent rulemaking process would be contrary to the public interest; and (2) the immediate adoption of the rule is required by a serious and unforeseen threat to the public health, safety, or welfare. The Code Officials Qualifications Board (Board) has submitted a written statement of its findings of need stating why adherence to the notice and hearing requirements would be contrary to the public interest and why the immediate adoption of the rule is required. Staff Counsel believes the Board has met the requirements of G.S. 150B-21.1 and has filed this temporary rule due to a serious and unforeseen threat to the public health, safety, or welfare.

Pursuant to G.S. 143-151.12, the Board is authorized to, and responsible for, adopting rules necessary to "establish minimum standards for employment as a Code-enforcement official: (i) in probationary or temporary status, and (ii) in permanent positions."

Pursuant to G.S. 143-151.13, the Board shall issue certificates to Code-enforcement officials who have demonstrated the necessary qualifications to engage in Code enforcement. Subsection (d) states, the "Board may provide for the issuance of probationary or temporary certificates valid for such period (not less than one year nor more than three years) as specified by the Board's rules, to any Code-enforcement official newly employed or newly promoted who lacks the qualifications prescribed by the Board as prerequisite to applying for a standard certificate under subsection (a). The Board may provide for appropriate levels of probationary or temporary certificates and

may issue these certificates with such special conditions or requirements relating to the place of employment of the person holding the certificate, his supervision on a consulting or advisory basis, or other matters as the Board may deem necessary to protect the public safety and health.”

The current language of 11 NCAC 08 .0602(a)(4) 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 highrise 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. This circumstance presents a serious threat to public health, safety, and welfare that necessitates corrective action.

The findings of need submitted by the Board explain that they “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.”

The Board further contends that, “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.”

Arguably, it was foreseeable that the existing language in 11 NCAC 08 .0602(a)(4) would cause a “threat to the public health, safety, or welfare” at the time it was adopted by the Board. It is conceivable that the Board’s omission of language indicating their intent to create a “progressive qualification structure” would permit community colleges to interpret the current Rule in this fashion. Also, the Board could have exercised due diligence by contacting the community college system to determine how the language in 11 NCAC 08 .0602(a)(4) would be implemented.

However, it was reasonable for the Board to believe community colleges would require individuals to complete the coursework and pass the Level I and Level II examinations prior to being allowed to complete a Level III inspector course. In Staff Counsel’s opinion, it was reasonably unforeseeable that community colleges would carry out 11 NCAC 08 .0602(a)(4) in this manner. Thus, temporary rulemaking is required to address this serious and existential threat to the public’s health, safety, and welfare, and to maintain the integrity of the State’s building inspection program.

The temporary rule meets the criteria in G.S. 150B-21.1(a)(1), (a3), (a4), and G.S. 150B-21.9. Staff Counsel recommends that the RRC approve temporary rule 11 NCAC 08 .0602 at its February 2026 meeting.

§ 150B-21.1.1 PROCEDURE FOR ADOPTING A TEMPORARY RULE

(a) Adoption-An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and that the immediate adoption of the rule is required by one or more of the following:

(1) A serious and unforeseen threat to the public health, safety, or welfare.

(a3) Unless otherwise provided by law, the agency shall:

- (1) At least 30 business days prior to adopting a temporary rule, submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed temporary rule and the notice of public hearing on the Internet to be posted within five business days.
- (2) At least 30 business days prior to adopting a temporary rule, notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule and of the public hearing.
- (3) Accept written comments on the proposed temporary rule for at least 15 business days prior to adoption of the temporary rule.
- (4) Hold at least one public hearing on the proposed temporary rule no less than five days after the rule and notice have been published.

(a4) An agency must also prepare a written statement of its findings of need for a temporary rule stating why adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest and why immediate adoption of the rule is required.

§ 143-151.13. Required standards and certificates for Code-enforcement officials.

(a) No person shall engage in Code enforcement under this Article unless that person possesses one of the following types of certificates, currently valid, issued by the Board attesting to that person's qualifications to engage in Code enforcement: (i) a standard certificate; (ii) a limited certificate provided for in subsection (c) of this section; or (iii) a probationary certificate provided for in subsection (d) of this section. To obtain a standard certificate, a person must pass an examination, as prescribed by the Board or by a contracting party under G.S. 143-151.16(d), that is based on the North Carolina State Building Code and administrative procedures required for Code enforcement. The Board may issue a standard certificate of qualification to each person who successfully completes the examination. The certificate authorizes that person to engage in Code enforcement and to practice as a qualified Code-enforcement official in North Carolina. The certificate of qualification shall bear the signatures of the chairman and secretary of the Board.

(b) The Board shall issue one or more standard certificates to each Code-enforcement official demonstrating the qualifications set forth in subsection (b1) of this section. Standard certificates are available for each of the following types of qualified Code-enforcement officials:

- (1) Building inspector.
- (2) Electrical inspector.
- (3) Mechanical inspector.
- (4) Plumbing inspector.
- (5) Fire inspector.
- (6) Residential changeout inspector.

(b1) The holder of a standard certificate may practice Code enforcement only within the inspection area and level described upon the certificate issued by the Board. A Code-enforcement official may qualify and hold one or more certificates. These certificates may be for different levels in different types of positions as defined in this section and in rules adopted by the Board.

(b2) A Code-enforcement official holding a certificate indicating a specified level of proficiency in a particular type of position may hold a position calling for that type of qualification anywhere in the State. With respect to all types of Code-enforcement officials, those with Level I, Level II, or Level III certificates shall be qualified to inspect and approve only those types and sizes of buildings as specified in rules adopted by the Board.

(c) A Code-enforcement official holding office as of the date specified in this subsection for the county or municipality by which he is employed, shall not be required to possess a standard certificate as a condition of tenure or continued employment but shall be required to complete such in-service training as may be prescribed by the Board. At the earliest practicable date, such official shall receive from the Board a limited certificate qualifying him to engage in Code enforcement at the level, in the particular type of position, and within the governmental jurisdiction in which he is employed. The limited certificate shall be valid only as an authorization for the official to continue in the position he held on the applicable date and shall become invalid if he does not complete in-service training within two years following the applicable date in the schedule below, according to the governmental jurisdiction's population as published in the 1970 U.S. Census:

Counties and Municipalities over 75,000 population - July 1, 1979

Counties and Municipalities between 50,001 and 75,000 - July 1, 1981

Counties and Municipalities between 25,001 and 50,000 - July 1, 1983

Counties and Municipalities 25,000 and under - July 1, 1985

All fire prevention inspectors holding office - July 1, 1989. Fire prevention inspectors have until July 1, 1993, to complete in-service training.

An official holding a limited certificate can be promoted to a position requiring a higher level certificate only upon issuance by the Board of a standard certificate or probationary certificate appropriate for such new position.

(d) The Board may provide for the issuance of probationary or temporary certificates valid for such period (not less than one year nor more than three years) as specified by the Board's rules, or until June 30, 1983, whichever is later, to any Code-enforcement official newly employed or newly promoted who lacks the qualifications prescribed by the Board as prerequisite to applying for a standard certificate under subsection (a). No official may have a probationary or temporary certificate extended beyond the specified period by renewal or otherwise. The Board may provide for appropriate levels of probationary or temporary certificates and may issue these certificates with such special conditions or requirements relating to the place of employment of the person holding the certificate, his supervision on a consulting or advisory basis, or other matters as the Board may deem necessary to protect the public safety and health.

(e) The Board shall, without requiring an examination, issue a standard certificate to any person who is currently certified as a county electrical inspector pursuant to G.S. 160D-1102. The certificate issued by the Board shall authorize the person to serve at the electrical inspector level approved by the State Fire Marshal in G.S. 160D-1102.

(f) The Board shall issue a standard certificate to any person who is currently licensed to practice as a(n):

- (1) Architect, registered pursuant to Chapter 83A;
- (2) General contractor, licensed pursuant to Article 1 of Chapter 87;
- (3) Plumbing or heating contractor, licensed pursuant to Article 2 of Chapter 87;
- (4) Electrical contractor, licensed pursuant to Article 4 of Chapter 87; or,
- (5) Professional engineer, registered pursuant to Chapter 89C;

provided the person successfully completes a short course, as prescribed by the Board, relating to the North Carolina State Building Code regulations and Code-enforcement administration. The standard certificate shall authorize the person to practice as a qualified Code-enforcement official in a particular type of position at the level determined by the Board, based on the type of license or registration held in any profession specified above.

§ 150B-21.9. Standards and timetable for review by Commission.

(a) Standards. - The Commission must determine whether a rule meets all of the following criteria:

- (1) It is within the authority delegated to the agency by the General Assembly.
- (2) It is clear and unambiguous.

(3) It is reasonably necessary to implement or interpret an enactment of the General Assembly, or of Congress, or a regulation of a federal agency. The Commission shall consider the cumulative effect of all rules adopted by the agency related to the specific purpose for which the rule is proposed.

(4) It was adopted in accordance with Part 2 of this Article.

Burgos, Alexander N

From: Heuser, Kyle
Sent: Monday, February 16, 2026 5:31 PM
To: Wiggs, Travis C
Cc: Burgos, Alexander N; Sorensen, Nicholas B
Subject: RE: 11 NCAC 08 .0602 (Temp Rule)

Good afternoon, Travis,

My apologies for the scrivener's error in writing January 27, 2025 in the Form 0500 – my intent was to indicate that adoption by the Board occurred on January 27, 2026. Given your indication that a corrected Form 0500 is not required, I will not submit one.

No public comments were submitted at the November 21, 2025 public hearing. The Board received one public comment regarding the amendment to 11 NCAC 08 .0602 via email on December 10, 2025. While the public comment period for the temporary amendment to 11 NCAC 08 .0602 expired on November 24, 2025, the public comment period for the (identical) permanent amendment to 11 NCAC 08 .0602 extended to January 30, 2026. Accordingly, I think that public comment is better construed as a comment on the permanent amendment to 11 NCAC 08 .0602 rather than the temporary amendment. In any event, the public comment was presented to and considered by the Board at its January 27, 2026 meeting before final adoption of the temporary amendment to 11 NCAC 08 .0602.

Please let me know if you have any additional questions.

Thanks,
Kyle

Kyle Heuser
Assistant General Counsel



North Carolina
Office of State Fire Marshal
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From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Monday, February 16, 2026 4:53 PM
To: Heuser, Kyle <kyle.heuser@ncdoi.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 11 NCAC 08 .0602 (Temp Rule)

Good afternoon, Kyle,

I've been assigned the temporary rule submitted by the COQB for the February 2026 RRC meeting. The "Adoption by agency" date is listed as "January 27, 2025", but there's no need to submit a corrected Form 0500 unless you are so inclined.

Has the COQB received any public comments regarding the amendment to 11 NCAC 08 .0602? Did the public make any statements at the November 21, 2025, hearing concerning the deletion of (a)(4) from this Rule?

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
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