



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency: N.C. Department of Health and Human Services/Director, DHSR</b>
<b>2. Rule citation &amp; name: 10A NCAC 15 .1801 REQUIREMENTS FOR REGISTRATION OF RADON PROFICIENCY PROGRAMS</b>
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes                      Effective date: <input checked="" type="checkbox"/> No
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: 11/15/23 b. Proposed Temporary Rule published on the OAH website: 11/22/23 c. Public Hearing date: 12/7/23 d. Comment Period: 12/18/23 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 11/15/23 f. Adoption by agency on: 2/2/24 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]: 2/23/24 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: 2/15/24
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b>  <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: SL2023-91, s. 2.(b) Effective date: 7/10/23 <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"/> State Medical Facilities Plan. <input type="checkbox"/> Other:
<b>Explain:</b> The temporary adoption of Rule 10A NCAC 15 .1801, Requirements for Registration of Radon Proficiency Programs, is in response to a recent act of the General Assembly, Session Law 2023-91, “An act to amend the North Carolina Building Code Exclusion for temporary motion picture, television, and theater stage sets and scenery to exempt them from use and occupancy classification under the code; to direct the Department of Health and Human Services to establish an approval process for Radon Proficiency Programs; and to provide that evidence of a licensee having maintained a license in good standing under Article 2 of Chapter 87 of the General Statutes for at least 15 years shall be accepted as experience for plumbing and heating qualifications by the Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors” that became effective July 10, 2023. Section 2.(b) of this Act, requires the N.C. Department of Health and Human Services to adopt temporary radon proficiency program approval rules. The purpose for the temporary rule adoption is to establish minimum criteria for programs which will certify radon professionals in North Carolina. It additionally gives radon proficiency programs the ability to gain approval in the State of North Carolina since there is currently no other avenue on the state or national level for organizations to be approved to certify radon professionals.

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

Radon is a naturally-occurring radioactive gas that enters people's homes and can lead to lung cancer. The NC Radon Program of DHHS recommends that homeowner's hire certified professionals to test and mitigate high levels of radon in their homes. At this time, there are only 2 companies in the US that have approval from the US Environmental Protection Agency (EPA) to certify radon professionals. There is no mechanism for new companies to gain approval to offer certifications because EPA is currently developing a new set of approval criteria for certifying companies. This law allows companies to become approved as professional radon certifiers in NC. Three companies have been listed on the NC Radon Program website for many years and they wish to continue to be listed up until and after the EPA develops criteria for national approval. The temporary rules will allow DHHS to expedite the approval process for these companies.

**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: Taylor Corpening**

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**10. Signature of Agency Head\*:**

DocuSigned by:

*Mark T. Corpening*

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\* 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:

Title:

E-Mail:

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

Date returned to agency:

1 10A NCAC 15 .1801 is adopted under temporary procedures with changes as follows:

2  
3 **SECTION .1800 – STANDARDS FOR RADON PROFICIENCY PROGRAM APPROVAL**

4  
5 **10A NCAC 15 .1801 REQUIREMENTS FOR REGISTRATION OF RADON PROFICIENCY**  
6 **PROGRAMS**

7 ~~(a) No person shall offer services as a radon proficiency program unless registered with the Department.~~

8 ~~(b)(a)~~ In addition to the definitions found in Rule .0104 of this Chapter, the following definition shall apply to this  
9 Rule: “Radon proficiency program” means an organization that provides training, competency testing, and  
10 certification to an individual as a radon professional.

11 ~~(c)(b)~~ Persons seeking initial registration, to amend a registration, or to renew a registration as a radon proficiency  
12 program shall:

- 13 (1) submit an application for registration to the agency at the addresses shown in Rule .0111(a) of this  
14 Chapter or as otherwise instructed by the agency. Applications for initial registration and  
15 applications to renew a registration shall be submitted with supporting information demonstrating  
16 that the requirements of Paragraph (d) of this Rule and S.L. 2023-91, s.2 are met. Applications to  
17 amend a registration shall be submitted with an attachment explaining the items to be amended; and  
18 (2) comply with the provisions of Paragraph (i) of this Rule.

19 ~~(d)(c)~~ The Department shall approve an application for initial registration or to renew a registration as a radon  
20 proficiency program that meets the criteria set out in S.L. 2023-91, s.2.

21 ~~(e)(d)~~ Radon proficiency program registrations issued by the Department shall expire at midnight on the expiration  
22 date stated on the radon proficiency program registration. The Department shall not issue an initial or renewed  
23 registration expiring less than one year from the date of issuance.

24 ~~(f)(e)~~ The Department shall deny an application for initial registration or to renew a registration as a radon  
25 proficiency program if the application fails to demonstrate compliance with Paragraph (d) of this Rule and S.L. 2023-  
26 91, s.2.

27 ~~(g)(f)~~ Persons whose radon proficiency program registrations are revoked or expired may apply for registration in  
28 accordance with Paragraph (c) of this Rule and S.L. 2023-91, [s.2 and shall not offer services as a radon proficiency  
29 program with a revoked or expired registration.] s.2.

30 ~~(h)(g)~~ Each registrant shall, upon notice of at least 48 hours, make available to the Department for inspection records  
31 maintained pursuant to this Rule.

32 ~~(i)(h)~~ Applications submitted to the Department for registration as a radon proficiency program shall contain the  
33 following information:

- 34 (1) Box 1, check the box next to the type of registration requested;  
35 (2) Box 2, business physical address:  
36 (A) name of the radiation proficiency program;  
37 (B) phone number at the physical location;

- 1           (C) website associated with the radiation proficiency program;
- 2           (D) physical address of the business, including the street address, city, county, state, and zip
- 3                 code. The five digit zip code may be used if the nine digit zip code is not known;
- 4           (E) mailing address if different from Box 1. If the physical and mailing addresses are the same,
- 5                 the mailing address may be left blank: Mailing address of the business, including city, state,
- 6                 and zip code. The five digit zip code may be used if the nine digit zip code is not known;
- 7                 and
- 8           (F) name, phone number and email for the individual completing the form.
- 9       (3) Box 3, authorizing signature of individual responsible for the radon proficiency program:
- 10           (A) name of company or corporate office;
- 11           (B) full legal name. Middle initials may be used in lieu of the full middle name; and
- 12           (C) signature of the individual registering the radiation proficiency program on behalf of the
- 13                 business; and
- 14       (4) Additional Attachments to include with application:
- 15           (A) documents establishing compliance and periodic reaccreditation with the international
- 16                 program approval standard through accreditation by a recognized accreditation body or
- 17                 demonstration of current approval by the United States Environmental Protection Agency
- 18                 as a radon proficiency [program;] program or;
- 19           (B) list of a board members from various private and public sector stakeholders to make
- 20                 decisions regarding curriculum, testing, instructor qualifications, quality assurance and
- 21                 control, continuing education requirements, and procedures for the handling of complaints;
- 22           (C) minimum training requirements for radon professionals for each type of certification
- 23                 offered;
- 24           (D) examination requirements for each type of certification;
- 25           (E) continuing education requirements for each type of certification; and
- 26           (F) instructor names and qualifications demonstrating relevant knowledge and experience.
- 27       (5) copies of the registration form are available free of charge by emailing the contacts listed at
- 28                 <https://www.ncdhhs.gov/divisions/health-service-regulation/north-carolina-radon->
- 29                 program/contacts.

31 History Note: Authority: S.L. 2023-91, s. 2;

32 Temporary Adoption Eff. February 23, 2024.