



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Code Officials Qualification Board	
2. Rule citation & name: 11 NCAC 08 .0735 Temporary Certificate	
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
4. Was this an Emergency Rule: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Effective date: April 20, 2020	
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: April 8, 2020 b. Proposed Temporary Rule published on the OAH website: April 14, 2020 c. Public Hearing date: May 6, 2020 d. Comment Period: April 21 – May 12, 2020 e. Notice pursuant to G.S. 150B-21.1(a3)(2): f. Adoption by agency on: May 19, 2020 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]: July 1, 2020 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 checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <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:	
Explain: A serious and unforeseen threat to the public health, safety or welfare. On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The COVID-19 is a respiratory disease that can result in serious illness or death. The COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. On March 12, 2020, the Governor of North Carolina and the NC Department of Health and Human Services recommended high risk persons stay at home, that schools implement plans for distance or e-learning, that employers and employees use teleworking technologies, and that mass gatherings should cancel, postpone, and modify these events or offer online streaming services. On March 14, 2020, the Governor of North Carolina issues Executive Order No. 117 that prohibited mass gatherings, closed schools, and urged social distancing.	

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

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:

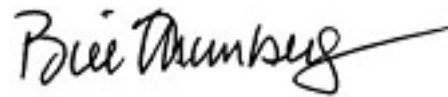
☒ No

9. Rule-making Coordinator: Loretta Peace-Bunch

Phone: 919-807-6004

E-Mail: Loretta.Peace-Bunch@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.

Typed Name: Bill Thunberg

Title: Chairman

E-Mail: billthunberg@gmail.com

Agency contact, if any: Kathy Williams

Phone: 919-647-0023

E-Mail: Kathy.williams@ncdoi.gov

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

REQUEST FOR TECHNICAL CHANGE

AGENCY: Code Officials Qualification Board

RULE CITATION: 11 NCAC 08 .0735

DEADLINE FOR RECEIPT: June 16, 2020; 5:00 PM

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In your Findings of Need form, please provide a date in Box 5(e).

In your Findings of Need form, Box 7, please explain why adherence to the notice and hearing requirements of the permanent rulemaking process are contrary to the public interest and why immediate adoption is required.

In the Rule, line 11, please use "his or her."

In (c), just to be sure, all temporary certificates will be valid for the same period of time, regardless of the date of issuance, correct?

In (d), how does a CEO return a temporary certificate? By mail?

In (d), as written, a CEO cannot return a temporary certificate they no longer need or want more than 30 days after receipt. Is that correct? If not, please clarify.

At line 19, please capitalize "State" if you are only referring to North Carolina and do not capitalize "state" if you are referring to any state.

At line 20, do you mean "If" instead of "When?"

At line 21, please use "he or she."

Is the temporary certificate an extension of the probationary certificate? See 143-153.13(d).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder
Commission Counsel
Date submitted to agency: June 15, 2020

11 NCAC 08 .0735 is adopted under temporary procedures as follows:

11 NCAC 08 .0735 TEMPORARY CERTIFICATE

(a) A temporary certificate shall be issued without examination or additional application to any code enforcement official (CEO) who currently possesses a probationary certificate that expires between March 12, 2020 and December 31, 2020. The application the CEO initially submitted to obtain the probationary certificate shall provide the basis for issuing the temporary certificate.

(b) A temporary certificate shall authorize the CEO, during the effective period of the certificate, to hold the position of the type, level, and location that corresponds to the probationary certificate the applicant previously received. The certificate shall specify the type and level of code enforcement in which the CEO may engage and may be conditioned upon his having supervision from an official with the specified certification or qualifications included on the CEO's probationary certificate application.

(c) The temporary certificate shall be effective for one year only for the period of March 12, 2020 through March 12, 2021 and shall not be renewed. During the one-year period, the official shall complete the requirements set forth in 11 NCAC 08 .0706 to qualify for the appropriate standard certificate.

(d) A CEO who is issued a temporary certificate that the CEO no longer needs or wants shall return the temporary certificate, within 30 days of receipt, to the Engineering and Codes Division of Department of Insurance for cancellation.

(e) A temporary certificate shall remain valid only so long as the person certified is employed by the state or a local government as a code enforcement official of the type and level indicated on the certificate. When the person certified leaves such employment for any reason, he shall return the certificate to the Board.

(f) A CEO with only a temporary certificate and no standard or limited certificate is not required to complete any continuing education courses.

History Note: Authority G.S. 143-151.12; 143-151.13;

Temporary Adoption Eff. July 1, 2020.