

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 08 .1601

DEADLINE FOR RECEIPT: Wednesday, August 7, 2019

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:

On the Submission for Permanent Rule form:

In Box 9A, you cite to SL 2018-19. But in Box 9B, you cite to SL 2018-29. Don't you mean to cite to SL 2018-29 both places?

In the Rule:

On line 6, there is no "Subchapter" here, only Chapter 08. Do you actually mean all of the new Section?

In Items (1), (2), (5), and (7), why is the entire phrase capitalized? The phrases are not all capitalized when used in the remaining rules. In addition, you do not capitalize the entire phrase in Item (8).

In (1), line 8, consider replacing "these Rules" with "the rules of this Section" or "the rules of this Subchapter" depending upon what you mean.

In (3), line 13, assuming you mean "NC" please capitalize "State"

On line 13, should this be "resources" (plural)? It appears so.

Also on line 13, replace "which" with "that"

In (5), line 17, please capitalize "State" if you mean to refer to NC.

In (8), line 23, replace "in which" with "that"

On line 24, delete "but not limited to,"

On line 26, define "consistently"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 24, 2019

On line 27, insert an “or” before “pending legal issues” and end the sentence after “issues.”

In the History Note, why are you specifically citing to G.S. 143-139.4(k)? Why not cite to the entire statute, or 143-139.4(a)?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 24, 2019

1 11 NCAC 08 .1601 is adopted as published in 33:22 NCR 2184-2185 as follows:
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3 **SECTION .1600. ALTERNATIVE INSPECTIONS**
4

5 **11 NCAC 08 .1601 DEFINITIONS**

6 As used in this Subchapter:

- 7 (1) “Alternative Inspection” means an inspection conducted by a Qualified Marketplace Inspector
8 pursuant to G.S. 143-139.4 and these Rules.
9 (2) “Authority Having Jurisdiction” means an organization, office, or individual responsible for
10 enforcing the requirements of a code or standard, or for approving equipment, materials, an
11 installation, or a procedure.
12 (3) “Engineering Services Division” or “ESD” means a division of the Office of State Fire Marshal
13 responsible for the Administration of the North Carolina Building code and the state resource which
14 support it.
15 (4) “OSFM” means the Office of State Fire Marshal in the North Carolina Department of Insurance.
16 (5) “Permit Holder” means the individual with overall responsibility for the construction or renovation
17 for which a permit has been applied for from the state or any city or county.
18 (6) “Qualified Marketplace Inspector” means an inspector that is licensed by the North Carolina Code
19 Officials Qualification Board pursuant to G.S. 143-151.12(9).
20 (7) “Timely Manner” means any requested inspection shall be performed by the close of business on
21 the second day. Inspection requests received after 12:00 noon shall be deemed to have been received
22 on the next business day.
23 (8) “Other information” means information in which will be used to determine whether to assign
24 personnel to conduct the requested inspection. Such information includes, but not limited to,
25 inspection reports showing permit holders exceeding 15 violations in a framing inspection for one-
26 and two-family dwellings, documentation showing a permit holder has been consistently not ready
27 when inspections are requested, pending legal issues, etc.

28
29 *History Note: Authority G.S. 143-139.4(k);*
30 *Eff. September 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Code Officials Qualification Board

RULE CITATION: 11 NCAC 08 .1602

DEADLINE FOR RECEIPT: Wednesday, August 7, 2019

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:

On the Submission for Permanent Rule form:

In Box 2, please state the full name of the Rule. (It is missing the "An")

In Box 9A, you cite to SL 2018-19. But in Box 9B, you cite to SL 2018-29. Don't you mean to cite to SL 2018-29 both places?

In the Rule:

In (a)(1) through (5), this is a recitation of G.S. 143-139(b)(2). Why do you need to restate it here?

In (b), line 12, state "Paragraph (a) of this Rule." Since you published this correctly in the NC Register, you do not need to show this as a change; simply do it.

In (c)(1), line 17, what is the "Completed Application"? What are the contents? Is this addressed by another rule or law? How does one get this application? And why is the phrase capitalized?

In (c)(2), so that I'm clear - you are requiring the individuals to have already paid the other jurisdiction?

In (c)(3), what is this documentation? Will the permit holder know?

In (d), line 20, what will this approval be based upon? G.S. 143-139.4(e)? I note that you state in Paragraph (e) basis for not approving the request. Will the requests that don't get denied under Paragraph (e) be granted?

In (f), lines 25 and 27, do you mean "shall" instead of "may"? If not, then you need to state under what circumstances these fees will be charged.

Further, as you are creating a fee in this Rule, G.S. 12-3.1 requires you to submit this Rule for consultation with the Legislative Commission on Governmental Operations before the Rule can become effective. (See G.S. 150B-21.3(c1))

Amanda J. Reeder
Commission Counsel

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In (g), line 31, I believe you intended to reference G.S. 153A-354.

In the History Note, line 34, please insert a citation to G.S. 58-2-40(1a), which is the express statutory authority to create the fee in Paragraph (f).

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

11 NCAC 08 .1602 is adopted as published in 33:22 NCR 2185 as follows:

11 NCAC 08 .1602 REQUEST FOR AN ALTERNATIVE INSPECTION

(a) In accordance with G.S. 143-139(b)(2), a permit holder may submit a written request for an alternative inspection for any of the following types of inspections required by the North Carolina State Building Code:

- (1) plumbing;
- (2) electrical systems;
- (3) general building restrictions and regulations;
- (4) heating and air-conditioning; or
- (5) general construction.

(b) Each request for an alternative inspection may request only one of the types of inspections outlined in Subparagraph (a). Any additional inspections, including a follow-up inspection, require a new written request by the permit holder.

(c) A permit holder may request an alternative inspection by submitting a written request to the Engineering Services Division of the Office of State Fire Marshal that contains, in addition to the requirements of G.S. 143-139.4(b), the following information:

- (1) Completed Application;
- (2) Proof of paid inspection fees to the authority having jurisdiction; and
- (3) Any other documentation required by the authority having jurisdiction.

(d) If a request for an alternative inspection is approved, a Qualified Marketplace Inspector shall be assigned to conduct the inspection within one business day of the approval of such request.

(e) If a request for an alternative inspection is not filed in accordance with these Rules, or the request does not meet the requirements of G.S. 143-139.4(e), the request shall be denied and the requestor notified of the reasons for the denial.

(f) The Commissioner may charge the permit holder a fee of sixty dollars (\$60.00) per hour for alternative inspections conducted pursuant to G.S. 143-139.4 and these Rules. The hourly rate shall not include the time travelling to and from inspections, although the Commissioner may charge for reimbursement for the actual mileage costs of travelling to and from inspections at the rate established under G.S. 138-6. The total fee shall be paid to the Commissioner no later than 30 days after completion of the alternative inspection.

(g) A permit holder who has paid the authority having jurisdiction for an inspection that has been conducted under these Rules may recoup the fees paid for alternative inspections in accordance with G.S. 143A-354(b) and G.S. 160A-414(b).

*History Note: Authority G.S. 143-139.4(a);
Eff. September 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Code Officials Qualification Board

RULE CITATION: 11 NCAC 08 .1603

DEADLINE FOR RECEIPT: Wednesday, August 7, 2019

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:

On the Submission for Permanent Rule form:

In Box 2, the name differs from the name on the Rule. Please either change the form or change the name in the Rule.

In Box 9A, you cite to SL 2018-19. But in Box 9B, you cite to SL 2018-29. Don't you mean to cite to SL 2018-29 both places?

In the Rule:

In (a), line 4, I suggest replacing "these Rules" with "the rules of this Section" or "the rules of this Chapter" depending upon what you mean.

In (b), line 7, consider replacing "must" with "shall"

And how is this approval done? Is this by the OSHR, outside of the control of the Department?

In (c), line 10, define "conspicuous" And conspicuous to whom?

In (d), line 12, what is a "completed inspection"?

In the History Note, line 15, why are you citing to G.S. 143-151.12, as that is the authority of the Code Officials Qualification Board? Why are you not citing to G.S. 134-139.4?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: July 24, 2019

1 11 NCAC 08 .1603 is adopted as published in 33:22 NCR 2184-2185 as follows:

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3 **11 NCAC 08 .1603 QUALIFIED MARKETPLACE INSPECTORS**

4 (a) In order to conduct an alternative inspection in accordance with G.S. 143-139.4 and these Rules, a Qualified
5 Marketplace Inspector shall meet the requirements of a code enforcement official contained in 11 NCAC 08. 0706 for
6 the type and size building requested to be inspected.

7 (b) A Qualified Marketplace Inspector must be approved for temporary work with the North Carolina Office of State
8 Human Resources, Temporary Solutions.

9 (c) A Qualified Marketplace Inspector shall be issued an identification badge by OSFM prior to beginning work. The
10 Qualified Marketplace Inspector shall display his or her identification badge in a conspicuous location on his or her
11 person at all times during the conduct of an alternative inspection.

12 (d) A Qualified Marketplace Inspector shall submit a completed inspection report to OSFM no later than one business
13 day following the completion of the alternative inspection.

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15 *History Note: Authority G.S. 143-151.12(2),(3);*
16 *Eff. September 1, 2019.*