RRC STAFF OPINION

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AGENCY: NC BUILDING CODE COUNCIL

RULE CITATION: 2012 NC FUEL GAS CODE: Section 311 – Carbon Monoxide Alarms (110308 Item B-3a)

RECOMMENDED ACTION:

 Return the rule to the agency for failure to comply with the Administrative Procedure Act

 Approve, but note staff’s comment

X Object, based on:

 X Lack of statutory authority

 Unclear or ambiguous

 Unnecessary

 Failure to adopt the rule in accordance with the APA

 Extend the period of review

COMMENT:

*This opinion applies to Sections 311.1 and 311.2.*

*There is no authority to require carbon monoxide alarms in all the new construction and existing dwellings covered by this rule. The scope or coverage of this rule is too broad. The statutory authority extends to only dwellings “having a fossil‑fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage” (G.S. 143-138(b2). These two rules appear to extend that requirement to all dwellings covered under this portion of the building code, including those who do not have either a fossil-fuel burning heater, appliance, or fireplace or an attached garage.*

§ 143‑138.  North Carolina State Building Code.

...

(b2)      The Code may contain provisions requiring the installation of either battery‑operated or electrical carbon monoxide detectors in every dwelling unit having a fossil‑fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA‑approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke. *(Emphasis Added.)*

....

*I have not included the entire statute because of its length. I do not believe the other portions are relevant.*

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AGENCY: NC BUILDING CODE COUNCIL

RULE CITATION: 2012 NC MECHANICAL CODE: Section 313 – Carbon Monoxide Alarms (110308 Item B-3b)

RECOMMENDED ACTION:

 Return the rule to the agency for failure to comply with the Administrative Procedure Act

 Approve, but note staff’s comment

X Object, based on:

 X Lack of statutory authority

 Unclear or ambiguous

 Unnecessary

 Failure to adopt the rule in accordance with the APA

Extend the period of review

COMMENT:

*This opinion applies to Sections 313.1 and 313.2.*

*There is no authority to require carbon monoxide alarms in all the new construction and existing dwellings covered by this rule. The scope or coverage of this rule is too broad. The statutory authority extends to only dwellings “having a fossil‑fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage” (G.S. 143-138(b2). These two rules appear to extend that requirement to all dwellings covered under this portion of the building code, including those who do not have either a fossil-fuel burning heater, appliance, or fireplace or an attached garage.*

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AGENCY: NC BUILDING CODE COUNCIL

RULE CITATION: 2012 NC PLUMBING CODE: Section 315 – Carbon Monoxide Alarms (110308 Item B-3c)

RECOMMENDED ACTION:

 Return the rule to the agency for failure to comply with the Administrative Procedure Act

 Approve, but note staff’s comment

X Object, based on:

 X Lack of statutory authority

 Unclear or ambiguous

 Unnecessary

 Failure to adopt the rule in accordance with the APA

Extend the period of review

COMMENT:

*This opinion applies to Sections 315.1 and 315.2.*

*There is no authority to require carbon monoxide alarms in all the new construction and existing dwellings covered by this rule. The scope or coverage of this rule is too broad. The statutory authority extends to only dwellings “having a fossil‑fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage” (G.S. 143-138(b2). These two rules appear to extend that requirement to all dwellings covered under this portion of the building code, including those who do not have either a fossil-fuel burning heater, appliance, or fireplace or an attached garage.*

RRC STAFF OPINION

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AGENCY: NC BUILDING CODE COUNCIL

RULE CITATION: 2009 NC RESIDENTIAL CODE: Section 313.1 – Carbon Monoxide Alarms (110308 Item B-6a)

RECOMMENDED ACTION:

 Return the rule to the agency for failure to comply with the Administrative Procedure Act

 Approve, but note staff’s comment

X Object, based on:

 X Lack of statutory authority

 Unclear or ambiguous

 Unnecessary

 Failure to adopt the rule in accordance with the APA

Extend the period of review

COMMENT:

*This opinion applies to Sections 313.1.1 and 313.1.2.*

*There is no authority to require carbon monoxide alarms in all the new construction and existing dwellings covered by this rule. The scope or coverage of this rule is too broad. The statutory authority extends to only dwellings “having a fossil‑fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage” (G.S. 143-138(b2). These two rules appear to extend that requirement to all dwellings covered under this portion of the building code, including those who do not have either a fossil-fuel burning heater, appliance, or fireplace or an attached garage.*

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AGENCY: NC BUILDING CODE COUNCIL

RULE CITATION: 2012 NC RESIDENTIAL CODE: Section 315 – Carbon Monoxide Alarms (110308 Item B-6b)

RECOMMENDED ACTION:

 Return the rule to the agency for failure to comply with the Administrative Procedure Act

 Approve, but note staff’s comment

X Object, based on:

 X Lack of statutory authority

 Unclear or ambiguous

 Unnecessary

 Failure to adopt the rule in accordance with the APA

Extend the period of review

COMMENT:

*This opinion applies to Sections 311.1 and 311.2.*

*There is no authority to require carbon monoxide alarms in all the new construction and existing dwellings covered by this rule. The scope or coverage of this rule is too broad. The statutory authority extends to only dwellings “having a fossil‑fuel burning heater, appliance, or fireplace, and in any dwelling unit having an attached garage” (G.S. 143-138(b2). These two rules appear to extend that requirement to all dwellings covered under this portion of the building code, including those who do not have either a fossil-fuel burning heater, appliance, or fireplace or an attached garage.*