

## Burgos, Alexander N

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**From:** Heuser, Kyle  
**Sent:** Wednesday, February 19, 2025 1:45 PM  
**To:** Rules, Oah  
**Cc:** Wiggs, Travis C; Burgos, Alexander N; Starling, Joseph  
**Subject:** 11 NCAC 05A .1001  
**Attachments:** 11 NCAC 05A 1001.docx

Good afternoon, Rules Division:

On behalf of the Office of the State Fire Marshal (OSFM), please find attached a copy of temporary Rule 11 NCAC 05A .1001 for the Rules Review Commission's review at its February 2025 meeting. Please let me know if you require anything further from OSFM for the Commission to perform its review of the rule. I'd also like to extend my thanks to Commission Counsel Travis Wiggs for his work in reviewing this rule and drafting the related staff opinion.

Thank you,  
Kyle

**Kyle Heuser**  
**Assistant General Counsel**

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**North Carolina**  
**Office of State Fire Marshal**  
1202 Mail Service Center  
Raleigh, NC 27699-1202  
919.647.0100

## Burgos, Alexander N

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**Subject:** FW: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

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**From:** Heuser, Kyle <kyle.heuser@ncdoi.gov>  
**Sent:** Wednesday, February 19, 2025 1:14 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Starling, Joseph <joseph.starling@ncdoi.gov>  
**Subject:** RE: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

Thank you, Travis. We will submit the rule as instructed, and I will certainly save your staff opinion in a safe place for when this issue inevitably arises again.

Kyle

**Kyle Heuser**  
**Assistant General Counsel**



**North Carolina**  
**Office of State Fire Marshal**  
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919.647.0100

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**From:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Sent:** Wednesday, February 19, 2025 11:38 AM  
**To:** Heuser, Kyle <[kyle.heuser@ncdoi.gov](mailto:kyle.heuser@ncdoi.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Starling, Joseph <[joseph.starling@ncdoi.gov](mailto:joseph.starling@ncdoi.gov)>  
**Subject:** RE: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

Good morning,

I intend to recommend to the RRC that the final revised temporary rule be approved at the February 26<sup>th</sup> meeting. Please submit the revised rule via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov) no later than 5pm on February 24, 2025. The electronic copy must be saved as the official rule name (XX NCAC XXXX). Please include me on the email.

Please see the attached staff opinion. Let me know if you have any questions.

Thank you.

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

## Burgos, Alexander N

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**Subject:** FW: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

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**From:** Heuser, Kyle <kyle.heuser@ncdoi.gov>  
**Sent:** Tuesday, February 18, 2025 1:41 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Starling, Joseph <joseph.starling@ncdoi.gov>  
**Subject:** RE: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

Travis,

Thank you for the phone call this morning, this email, and your continued efforts in reviewing this rule.

The need for an emergency and temporary rule addressing the installation and setup of FEMA's Transportable Temporary Housing Units (TTHUs) arose from an urgent and unforeseen threat to the public health, safety, and welfare. When Hurricane Helene struck in late September of 2024, thousands of North Carolinians were displaced from their homes, creating an immediate housing crisis. While some disaster survivors were able to find temporary accommodations with family, friends, or in shelters, many lacked stable housing options. As temperatures dropped in the late fall and winter months, the prolonged displacement of storm survivors became not just an issue of inconvenience but a serious risk to health and safety. Exposure to cold weather, coupled with unstable living conditions, increased the likelihood of illness, injury, and undue hardship for impacted residents, necessitating immediate regulatory action to expedite the safe installation of FEMA's TTHUs.

At the time of the hurricane and in the immediate aftermath, it was not anticipated that so many North Carolinians would remain without safe and warm shelter by December of 2024. Disaster response plans assume that temporary housing solutions, such as FEMA's TTHUs, will be deployed efficiently, ensuring that displaced residents have a place to live before winter sets in. However, unforeseen delays in the installation and inspection processes resulted in a bottleneck, leaving storm survivors in precarious conditions far longer than expected. The unforeseen nature of the threat became clear when it was evident that FEMA's standard procedures for TTHU installation were not progressing at a pace that met the urgent needs of affected communities. As [WRAL reported in December](#), only 57 households had been moved into FEMA's TTHUs by that time, far below its target of having 103 units occupied by Thanksgiving. Without rapid state intervention to provide alternative methods for installation of FEMA's TTHUs, storm victims would have continued to face extended displacement during the coldest months of the year.

The threat was also exacerbated by the economic and social instability that comes with prolonged displacement. Many residents who lost their homes were already facing financial hardship due to storm-related job losses or damages to their businesses. Without stable housing, families struggled to maintain employment, keep children in school, and access necessary healthcare services. The longer people remained without safe and secure shelter, the more difficult it became for communities to recover. This cascading effect of displacement was not something that could have been fully predicted at the time of the hurricane but became increasingly evident as the weeks and months passed without significant improvement in housing availability. The State could not have foreseen that so many residents would remain in limbo by December, making emergency action necessary to mitigate further harm.

Given these compounding and unforeseen challenges, OSFM acted decisively to adopt a rule under emergency and temporary procedures to facilitate the safe and efficient installation of FEMA's TTHUs. The content of Rule 11 NCAC 05A .1001 is based on daily communications between OSFM's Engineering Division and the local county

inspectors who are primarily responsible for enforcing the State of North Carolina Regulations for Manufactured Homes and the North Carolina State Building Code, as well as on-site inspections of FEMA's TTHUs by OSFM staff and several meetings with FEMA representatives. These communications and on-the-ground experience enabled OSFM to draft a rule that eliminates the most significant bottlenecks to the safe installation of FEMA's TTHUs, taking into account the geographic barriers and other unique challenges that slowed FEMA's contractors. For example, Paragraph (b) of the Rule reduces the time required to install TTHUs by allowing the installer to forego burying electrical conduits if they follow the requirements of that paragraph. Without this rule, bureaucratic delays and logistical barriers would have continued to impede the deployment of desperately needed housing, worsening the public health and safety crisis already affecting disaster survivors. Nor is this crisis over – FEMA [recently extended](#) the deadline for aid applications to March 8<sup>th</sup>, 2025 for affected North Carolinians, and FEMA expects that it “[will take years to rebuild and recover](#)” from the damage caused to Western North Carolina.

Accordingly, adoption of the temporary version of Rule 11 NCAC 05A .1001 is necessary to ensure that FEMA's contractors respond efficiently to this serious and unforeseen crisis that, while not initially predictable, became clear as winter approached and so many North Carolinians remained unhoused. By adopting the temporary version of Rule 11 NCAC 05A .1001, OSFM seeks to protect North Carolinians from the serious and escalating risks associated with prolonged displacement by authorizing FEMA's contractors to continue using the alternative means and methods of installing TTHUs that have been successful in accelerating installations since the adoption of the emergency version of the Rule.

Please let me know if you have any additional questions or require anything further for your review of the temporary version of 11 NCAC 05A .1001.

Thanks,  
Kyle

**Kyle Heuser**  
**Assistant General Counsel**



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**North Carolina**  
**Office of State Fire Marshal**  
1202 Mail Service Center  
Raleigh, NC 27699-1202  
919.647.0100



## Burgos, Alexander N

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**Subject:** FW: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

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**From:** Heuser, Kyle <kyle.heuser@ncdoi.gov>  
**Sent:** Tuesday, February 18, 2025 1:41 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Starling, Joseph <joseph.starling@ncdoi.gov>  
**Subject:** RE: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

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inspectors who are primarily responsible for enforcing the State of North Carolina Regulations for Manufactured Homes and the North Carolina State Building Code, as well as on-site inspections of FEMA's TTHUs by OSFM staff and several meetings with FEMA representatives. These communications and on-the-ground experience enabled OSFM to draft a rule that eliminates the most significant bottlenecks to the safe installation of FEMA's TTHUs, taking into account the geographic barriers and other unique challenges that slowed FEMA's contractors. For example, Paragraph (b) of the Rule reduces the time required to install TTHUs by allowing the installer to forego burying electrical conduits if they follow the requirements of that paragraph. Without this rule, bureaucratic delays and logistical barriers would have continued to impede the deployment of desperately needed housing, worsening the public health and safety crisis already affecting disaster survivors. Nor is this crisis over – FEMA [recently extended](#) the deadline for aid applications to March 8<sup>th</sup>, 2025 for affected North Carolinians, and FEMA expects that it “[will take years to rebuild and recover](#)” from the damage caused to Western North Carolina.

Accordingly, adoption of the temporary version of Rule 11 NCAC 05A .1001 is necessary to ensure that FEMA's contractors respond efficiently to this serious and unforeseen crisis that, while not initially predictable, became clear as winter approached and so many North Carolinians remained unhoused. By adopting the temporary version of Rule 11 NCAC 05A .1001, OSFM seeks to protect North Carolinians from the serious and escalating risks associated with prolonged displacement by authorizing FEMA's contractors to continue using the alternative means and methods of installing TTHUs that have been successful in accelerating installations since the adoption of the emergency version of the Rule.

Please let me know if you have any additional questions or require anything further for your review of the temporary version of 11 NCAC 05A .1001.

Thanks,  
Kyle

**Kyle Heuser**  
**Assistant General Counsel**



**North Carolina**  
**Office of State Fire Marshal**  
1202 Mail Service Center  
Raleigh, NC 27699-1202  
919.647.0100

## Burgos, Alexander N

---

**Subject:** FW: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

---

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

**Sent:** Tuesday, February 18, 2025 10:19 AM

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

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Starling, Joseph <joseph.starling@ncdoi.gov>

**Subject:** RE: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

Kyle,

Your agency indicated on Form 0500 that the reason for this temporary rule is: 1) A serious and unforeseen threat to the public, health, safety or welfare and 2) The effective date of a recent act (S.L. 2024-57). What is the OSFM's reasoning as to why "*immediate* adoption of the rule is *required* by....[an] *unforeseen* threat...."?

Thanks,

Travis C. Wiggs

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1929

Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

## Burgos, Alexander N

---

**Subject:** FW: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

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**From:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Sent:** Monday, February 17, 2025 1:58 PM  
**To:** Heuser, Kyle <[kyle.heuser@ncdoi.gov](mailto:kyle.heuser@ncdoi.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Starling, Joseph <[joseph.starling@ncdoi.gov](mailto:joseph.starling@ncdoi.gov)>  
**Subject:** RE: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

Yes, 10am tomorrow works. Talk to you then.

Thanks,

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

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**From:** Heuser, Kyle <[kyle.heuser@ncdoi.gov](mailto:kyle.heuser@ncdoi.gov)>  
**Sent:** Monday, February 17, 2025 12:16 PM  
**To:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Starling, Joseph <[joseph.starling@ncdoi.gov](mailto:joseph.starling@ncdoi.gov)>  
**Subject:** Re: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

Travis,

Thanks for your email. Does 10:00am tomorrow work for you? My schedule is mostly open tomorrow, so I can accommodate another time that works better for you.

Thanks,  
Kyle

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**From:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>  
**Sent:** Monday, February 17, 2025 11:58:23 AM  
**To:** Heuser, Kyle <[kyle.heuser@ncdoi.gov](mailto:kyle.heuser@ncdoi.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Starling, Joseph <[joseph.starling@ncdoi.gov](mailto:joseph.starling@ncdoi.gov)>  
**Subject:** RE: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

Kyle,

Thank you for the responses and changes. I am satisfied with your explanations and changes made for requests 2-4. I'm still working through the first question dealing with your agency's authority to adopt from S.L. 2024-57.

I see you're out of the office today. When is a good time for us to schedule a quick call this week? I'm available to chat tomorrow (2/18).

Thanks,

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

## **Burgos, Alexander N**

---

**Subject:** FW: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

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**From:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>

**Sent:** Thursday, February 13, 2025 1:39 PM

**To:** Heuser, Kyle <[kyle.heuser@ncdoi.gov](mailto:kyle.heuser@ncdoi.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Starling, Joseph <[joseph.starling@ncdoi.gov](mailto:joseph.starling@ncdoi.gov)>

**Subject:** RE: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

Thanks, Kyle. Do you know if the Office of the State Fire Marshal has ever promulgated rules involving transportable temporary housing units?

Travis C. Wiggs

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1929

Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

## Burgos, Alexander N

---

**Subject:** FW: Temporary Rule 11 NCAC 05A .1001  
**Attachments:** FW: OSFM Alternative Methods for FEMA Owned Manufactured Homes

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**From:** Heuser, Kyle <kyle.heuser@ncdoi.gov>  
**Sent:** Thursday, February 13, 2025 12:42 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Starling, Joseph <joseph.starling@ncdoi.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: Temporary Rule 11 NCAC 05A .1001

Travis,

Please find attached the notice that was sent on December 23, 2024 to the inspections departments of every county (or jurisdiction located therein) in which FEMA's transportable temporary housing units are being installed in response to Hurricane Helene. Please let me know if you have any questions or additional requests.

Thanks,  
Kyle

**Kyle Heuser**  
**Assistant General Counsel**

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**North Carolina**  
**Office of State Fire Marshal**  
1202 Mail Service Center  
Raleigh, NC 27699-1202  
919.647.0100

# **FEMA Transportable Temporary Housing Units**

## **Statewide Installation Alternative Methods**

**(Session Law 2024-57; Section 1F.4 – 11 NCAC 05B .1001)**

**December 23, 2024**

**Purpose:** Pursuant to the authority granted to the Office of State Fire Marshal by the General Assembly in S.L. 2024-57, this document provides statewide alternative methods for the installations of FEMA-owned transportable temporary housing units installed in the aftermath of Hurricane Helene. The document does not prevent or discourage compliance with the requirements within setup manuals or State Codes, nor the local jurisdictions' authority to create and approve additional alternative materials and methods. These alternative methods may be used as an option at the installer's discretion. The guidance contained in this document uses field composition and terminology and is consistent with 11 NCAC 05B .1001.

The duration of the temporary housing shall be determined by FEMA. Any home or equipment that is later determined to be used in a permanent nature will require the owner and/or contractor to obtain new permits from the authority having jurisdiction. The permanent home or equipment shall be installed or modified to meet the standards that are in effect when a new permit is pulled.

### **Manufactured Housing Unit (MHU) Set Manual & State Code**

#### **Alternatives Methods**

#### **Setup / Foundations**

Note: This section applies to MHUs only. The State does not regulate the setup of vehicles; for Recreational Vehicles, including Park Models and Travel Trailers, only the electrical and plumbing sections of this document apply.

- (1) Footings for piers may be placed on the surface grade in lieu of the frostline depth where all the following conditions apply:
  - (a) the grade under the footing is undisturbed (no fill dirt) or a compaction test is provided; and
  - (b) underpinning encapsulates the entirety of the open space between the floor of the MHU and the grade
- (2) Longitudinal and Lateral Bracing Systems (Minute Man, Oliver, etc.) may be used where pier footings are placed on grade surface where all the following conditions apply:
  - (a) the height limitations described in the manufacturer instructions of the bracing system are not exceeded; and
  - (b) the four corners of the MHU are provided with tie down strapping
- (3) Positive drainage may be omitted where the grade under the MHU contains no low areas or holes where water may accumulate
- (4) Exterior landings for stairs not exceeding 36 ft<sup>2</sup> may be regulated by the 2019 NC Regulations for Manufactured Homes in lieu of the 2018 NC Residential Code



- (5) Exterior landings for stairs may be omitted where all the following conditions apply:
  - (a) the stairs are constructed in accordance with either the 2019 NC Regulations for Manufactured Homes or the 2018 NC Residential Code (must have turndowns on both handrail ends);
  - (b) the stair system has cross members on the structure side of the system for lateral support; and
  - (c) all corners of the stair system are supported underneath by solid concrete blocks no less than 4 inches thick on undisturbed soil

## **Electrical**

Note: TEMPORARY electrical can cause PERMANENT damage to persons and property.

- (1) Electrical conduits shall be allowed installation without burial or further protection in the horizontal area between the electrical pedestal and the structure when such area is 3 feet or less
- (2) Electrical conduit may be installed on top of the grade without burial where all the following conditions apply:
  - (a) the conduit is boxed in with building materials;
  - (b) the covering is secured with driven stakes and supported to the grade no less than every 5 feet and at every direction of a bend to prevent movement;
  - (c) the covering is painted orange, and orange paint is reapplied to the covering every 60 days; and
  - (d) the lumber used for the building materials is treated
- (3) Ridged Metal Conduit may be installed on top of the grade without burial, supporting, or covering with building materials if the conduit is painted orange, and orange paint is reapplied to the conduit every 60 days
- (4) Recreational Vehicles (Park Models and Travel Trailers) may be permitted to be hardwired directly to electrical equipment using wiring in non-flexible conduits rather than a plug-and-cap described in the State interpretations
- (6) Any temporary electrical service or pedestal may utilize a single ground rod without a supplemental ground electrode where all the following conditions apply:
  - (a) the service or pedestal is used exclusively for the connection of a FEMA owned transportable temporary housing unit or its accessory structure and equipment;
  - (b) all ungrounded circuits do not exceed 150 volts to ground; and
  - (c) the rating of the single disconnecting means, or the summation of the ratings of multiple overcurrent devices that serve together as the disconnecting means, does not exceed 100 amperes.

## Plumbing

Note: Photos are provided on the following pages as examples to the language below.

- (1) Water service and distribution pipes may be installed on top of grade where all the following conditions shall apply:
  - (a) both sides of the piping are secured with driven stakes and supported to the grade no less than every 5 feet and at every direction of a bend to prevent movement;
  - (b) electrical self-regulating pipe heating cable (heat tape) is installed with the piping;
  - (c) piping insulation to prevent freezing encapsulates the piping and heating cable; and
  - (d) the piping insulation is painted orange, and its reapplication shall not exceed 60 days;
- (2) Drain-waste-vent (DWV) pipes for the building drain and sewer may be installed on top of grade where all the following conditions shall apply:
  - (a) both sides of the piping are secured with driven stakes and supported to the grade no less than every 5 feet and at every direction of a bend to prevent movement; and
  - (b) the piping or its insulation where applicable is painted orange, and its reapplication shall not exceed 60 days;
- (3) Drain-waste-vent (DWV) pipes for the building drain and sewer installed on top of grade must be installed utilizing either (a) or (b):
  - (a) a slope in accordance with the 2018 NC Plumbing Code
  - (b) a sewage grinder/macerator pump, including electrical self-regulating pipe heating cable (heat tape) and piping insulation to prevent freezing
- (4) Where sewage grinder pumps are installed, all the following conditions shall apply:
  - (a) the pump and tank shall be accessible for service (not be located under the MHUs);
  - (b) the pump tank shall be insulated with a box constructed from building materials and foam board of at least 1.5 inches thick; and
  - (c) the lumber used for the building materials shall be treated

**Joseph Daniel Starling, PE**  
**Chief of Operations | Engineering**  
**Deputy State Fire Marshal**



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**North Carolina**  
**Office of State Fire Marshal**  
1202 Mail Service Center  
Raleigh, NC 27699-1202  
919.397.6159

















## Burgos, Alexander N

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**Subject:** FW: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting  
**Attachments:** 11 NCAC 05A 1001 Response to Requests for Changes.docx; 11 NCAC 05A 1001.docx

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**From:** Heuser, Kyle <kyle.heuser@ncdoi.gov>  
**Sent:** Thursday, February 13, 2025 12:37 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Starling, Joseph <joseph.starling@ncdoi.gov>  
**Subject:** RE: Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting

Travis,

Please find attached the Office of the State Fire Marshal's response to your requests for changes, together with a copy of the rule. Please let me know if you have any questions or additional requests.

Thanks,  
Kyle

**Kyle Heuser**  
**Assistant General Counsel**

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**North Carolina**  
**Office of State Fire Marshal**  
1202 Mail Service Center  
Raleigh, NC 27699-1202  
919.647.0100

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Office of State Fire Marshal

RULE CITATION: 11 NCAC 05A .1001 (Temporary)

DEADLINE FOR RECEIPT: February 20, 2025

***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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*Form 0500 cites the authority and reason for the temporary rule as Section 1F.4 of S.L. 2024-57. Section 1F.4(c) says, "This section expires on March 1, 2025." How can this temporary rule become effective March 1, 2025 if the authority for the rule expires on the same date?*

Section 1F.4.(a) of S.L. 2024-57 grants the Office of the State Fire Marshal (OSFM) the authority to "adopt rules ... that relate to the placement, construction, installation, and connection of temporary manufactured and modular dwellings." See S.L. 2024-57, § 1F.4.(a) (emphasis added). Section 1F.4.(a) similarly grants OSFM the authority to "adopt rules to ensure that any person that places, constructs, installs, and connects a temporary manufactured and modular dwelling meets the manufacturer's installation instructions and applicable provisions of the North Carolina State Building Code and the State of North Carolina Regulations for Manufactured Homes." *Id.* (emphasis added).

The expiration of Section 1F.4 of S.L. 2024-57 on March 1, 2025, pursuant to Section 1F.4.(c) of the session law, is not relevant to the current procedural step of the rulemaking process. There is no provision in Section 1F.4 of S.L. 2024-57 that requires review of a rule adopted pursuant to that section by the Rules Review Commission or entry of such a rule into the North Carolina Administrative Code prior to the expiration of OSFM's statutory authority to adopt the rule. See S.L. 2024-57, § 1F.4. Nor is there any provision that imposes an expiration date for rules adopted pursuant to Section 1F.4. Imposing such requirements now would be contrary to both the plain meaning of Section 1F.4 of S.L. 2024-57 and its clear legislative intent. *Id.*

Pursuant to Section 1F.4.(c) of S.L. 2024-57, OSFM's authority to adopt rules described in Section 1F.4.(a) of S.L. 2024-57 expires on March 1, 2025. OSFM already complied with this deadline and exercised all authority required to promulgate the rule when it finally adopted 11 NCAC 05A .1001 under temporary rulemaking procedures on February 7, 2025. Consequently, according to the plain meaning of Section 1F.4 of S.L. 2024-57, Section 1F.4.(c)'s expiration date provision would prevent OSFM from adopting the rules described

Travis Wiggs  
Commission Counsel  
Date submitted to agency: 2/10/25



therein after March 1, 2025, but does not prevent the **entry** of rules into the North Carolina Administrative Code properly adopted by OSFM before the statutorily prescribed deadline.

Moreover, there is clear legislative intent supporting the interpretation that Section 1F.4.(c)'s expiration provision does not prevent promulgation of a rule adopted by OSFM prior to March 1, 2025 with an effective date March 1, 2025, or even a date thereafter. The General Assembly has enacted session laws that impose express expiration dates for rules adopted pursuant to the rulemaking authority granted therein, even with respect to the same natural disaster (Hurricane Helene) that led to the enactment of Section 1F.4 of S.L. 2024-57. For example, Section 4E.1.(e) of S.L. 2024-53 provides that, "[n]otwithstanding G.S. 150B-21.1A(d), an emergency rule adopted pursuant to this section shall expire March 1, 2025." See S.L. 2024-53, § 4E.1.(e). Section 4E.1.(f) of the same session law provides that the preceding subsections granting emergency rulemaking authority to various agencies also expire March 1, 2025. Id. at § 4E.1.(f). Therefore, the General Assembly has shown that it will expressly provide an expiration date for rules adopted pursuant to session laws granting specific rulemaking authority when it intends for such rules to expire by a certain date. The inclusion of both (1) an expiration date for the rules adopted pursuant to Section 4E.1 of S.L. 2024-53 and (2) an expiration date for the authority to adopt the rules described therein shows that that the General Assembly understands the difference between an expiration of the authority to adopt rules and the expiration of the rules themselves. In contrast, the General Assembly provided no such expiration date in Section 1F.4 of S.L. 2024-57, and instead opted to only impose a deadline by which OSFM's authority to adopt the rules described therein expires. Consequently, the Rules Review Commission may review 11 NCAC 05A .1001 at its regularly scheduled February 2025 meeting and, if the Commission approves the rule, direct Office of Administrative Hearings staff to enter the rule into the North Carolina Administrative Code with an effective date of March 1, 2025.

*In (a) lines 9-10, I don't see where "the State of North Carolina Regulations for Manufactured Homes," was published in the Notice of Text. Does this omission constitute a substantial change under 150B-21.2(g)?*

No, this omission does not constitute a substantial change under G.S. § 150B-21.2(g). Pursuant to G.S. § 150B-21.2, a rule differs substantially if it (1) affects the interest of persons that, based on the proposed text of the rule published in the North Carolina register, could not reasonably have determined that the rule would affect their interests; (2) addresses a subject matter or an issue that is not addressed in the proposed text of the rule; or (3) produces an effect that could not reasonably have been expected based on the proposed text of the rule.

Here, the words "State of North Carolina Regulations for Manufactured Homes" were added to Paragraph (a) in lines 9-10 to clarify the intent of the rule and make clear that those regulations are applicable to the installation of the transportable temporary housing units ("TTHUs") owned by the Federal Emergency Management Agency ("FEMA"). The proposed text of the rule that was published in the register already had the same effect as the revised language because the State of North Carolina Regulations for Manufactured Homes is applicable to the installation of the FEMA TTHUs that are the subject of the rule whether or not those regulations are identified in the text of the rule.

The addition of the words “State of North Carolina Regulations for Manufactured Homes” does not cause the Rule to affect the interests of any additional or different persons because the Rule still only applies to FEMA’s TTHUs, the contractors who install them, and the code officials who inspect them. The additional language does not address a subject matter or an issue that is not addressed in the proposed text of the rule because it simply clarifies the Rule’s language regarding the regulatory framework of laws applicable to the installation of FEMA TTHUs. As stated above, the Rule does not produce an effect that could not reasonably have been expected based on the proposed text of the rule because the added language does not alter the effect of the Rule in any way.

Moreover, the addition is consistent with legislative intent because Section 1F.4.a of S.L. 2024-57 provides OSFM with the authority to adopt rules to ensure that any person that places, constructs, installs, and connects a temporary manufactured and modular dwelling meets “the manufacturer’s installation instructions and applicable provisions of the North Carolina State Building Code and the State of North Carolina Regulations for Manufactured Homes.” See S.L. 2024-57, § 1F.4.(a) (emphasis added).

*In line 10 and elsewhere throughout the Rule, I assume “may” is used permissively to provide discretion to those practically using this Rule in the field. Is this Rule intended to allow the “alternative methods” listed to be used in combination with one another, if necessary?*

Yes, the word “may” is used permissively to provide discretion to those practically using this Rule in the field. The Rule is intended to allow the alternative methods listed to be used in combination with one another, if necessary.

*In (a)(2), line 13, what is a “compaction test” and how is it “provided”? Who provides the compaction test?*

A compaction test is a measurement of how compacted the soil is. The compaction test must be provided by the installer of the transportable temporary housing unit to the authority having jurisdiction (local inspections department). The words “provided by the installer of the transportable temporary housing unit to the authority having jurisdiction” have been added to lines 13-14 to clarify the intent.

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

1 11 NCAC 05A .1001 is proposed for adoption under temporary procedures as follows:  
2

3 **SECTION 1000 – DISASTER RESPONSE AND RECOVERY**  
4

5 **11 NCAC 05A .1001 FEDERAL EMERGENCY MANAGEMENT AGENCY-OWNED**  
6 **TRANSPORTABLE TEMPORARY HOUSING UNITS**  
7

8 (a) Federal Emergency Management Agency (“FEMA”)–owned transportable temporary housing units shall be  
9 installed in accordance with the manufacturer's installation ~~instructions~~ instructions, the State of North Carolina  
10 Regulations for Manufactured Homes, and the North Carolina State Building Code. Such housing units may use the  
11 following alternative methods for the installation of the structures and their foundations:

- 12 (1) Footings for piers may be placed on the surface grade in lieu of the frostline depth where the grade  
13 under the footing is undisturbed or a compaction test is ~~provided~~, provided by the installer of the  
14 transportable temporary housing unit to the authority having jurisdiction, and the underpinning  
15 encapsulates the entirety of the open space between the floor of the structure and the grade.  
16 (2) Longitudinal and lateral bracing systems may be used where pier footings are placed on grade  
17 surface, the height limitations described in the manufacturer instructions of the bracing system are  
18 not exceeded, and the four corners of the structure are provided with tie down strapping.  
19 (3) Positive drainage may be omitted where the grade under the structure contains no low areas or holes  
20 where water may accumulate.  
21 (4) Exterior landings for stairs not exceeding 36 square feet may be regulated by the applicable North  
22 Carolina Regulations for Manufactured Homes in lieu of the applicable North Carolina Residential  
23 Code.  
24 (5) Exterior landings for stairs may be omitted where the stairs are constructed in accordance with either  
25 the applicable North Carolina Regulations for Manufactured Homes or the applicable North  
26 Carolina Residential Code. If an exterior landing is omitted, the stair system shall have cross  
27 members on the structure side of the system for lateral support and all corners of the stair system  
28 shall be supported underneath by solid concrete blocks no less than four inches thick.

29 (b) External electrical systems used to supply power to FEMA-owned transportable temporary housing units and  
30 their equipment shall conform to the North Carolina Electrical Code. Such electrical systems may use the  
31 following alternative methods:

- 32 (1) Electrical conduits may be installed without burial or further protection in the horizontal area  
33 between the electrical pedestal and the structure when such area is three feet or less.  
34 (2) Electrical conduits may be installed on top of the grade without burial where the conduit is boxed in  
35 with building materials, the covering is secured with driven stakes and supported to the grade no less  
36 than every five feet and at every direction of a bend to prevent movement, the covering is painted  
37 orange and orange paint is reapplied to the covering every 60 days, and the lumber used for the  
38 building materials is treated.

(3) Ridged metal conduits may be installed on top of the grade without burial, supporting, or covering with building materials if the conduit is painted orange and orange paint is reapplied to the conduit every 60 days.

(4) Recreational Vehicles, as that term is defined in G.S. 20-4.01(32b), may be hardwired directly to electrical equipment using wiring in non-flexible conduits rather than a plug-and-cap.

~~(6)~~(5) Any temporary electrical service or pedestal may utilize a single ground rod without a supplemental ground electrode where the service or pedestal is used exclusively for the connection of a FEMA-owned transportable temporary housing unit or its accessory structure and equipment, all ungrounded circuits do not exceed 150 volts to ground, and the rating of the single disconnecting means, or the summation of the ratings of multiple overcurrent devices that serve together as the disconnecting means, does not exceed 100 amperes.

(c) External plumbing systems for connection to FEMA-owned transportable temporary housing units and their equipment shall conform to the North Carolina Residential Code and the North Carolina Plumbing Code.

Such plumbing systems may use the following alternative methods:

(1) Water service and distribution pipes may be installed on top of grade where both sides of the piping are secured with driven stakes and supported to the grade no less than every five feet and at every direction of a bend to prevent movement, electrical self-regulating pipe heating cable is installed with the piping, piping insulation to prevent freezing encapsulates the piping and heating cable, and the piping insulation is painted orange and orange paint is reapplied to the piping insulation every 60 days.

(2) Drain-waste-vent pipes for the building drain and sewer may be installed on top of grade where both sides of the piping are secured with driven stakes and supported to the grade no less than every five feet and at every direction of a bend to prevent movement, and the piping or its insulation where applicable is painted orange and orange paint is reapplied to the piping or its insulation every sixty 60 days.

(3) Drain-waste-vent pipes for the building drain and sewer installed on top of grade must be installed utilizing either a slope in accordance with the applicable North Carolina Plumbing Code or a sewage grinder pump including electrical self-regulating pipe heating cable and piping insulation to prevent freezing.

(4) Where sewage grinder pumps are installed, the pump and tank shall be accessible for service, the pump tank shall be insulated with a box constructed from building materials and foam board of at least one and one-half (1 ½) inches thick, and the lumber used for the building materials shall be treated.

*History Note: Authority G.S.58-78A-2; S.L. 2024-57, s. 1F.4.;*

## Burgos, Alexander N

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**Subject:** FW: Temporary Rule 11 NCAC 05A .1001

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Sent:** Thursday, February 13, 2025 11:44 AM  
**To:** Heuser, Kyle <kyle.heuser@ncdoi.gov>  
**Cc:** Starling, Joseph <joseph.starling@ncdoi.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: Temporary Rule 11 NCAC 05A .1001

Kyle,

Thank you for the response below.

Can you send me evidence of your agency's compliance with 150B-21.1(a3)(2)? Form 0500 indicates notice was sent to your agency's mailing list on December 23, 2024.

Thanks,

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

## Burgos, Alexander N

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**Subject:**

FW: Temporary Rule 11 NCAC 05A .1001

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

**Sent:** Monday, February 10, 2025 1:59 PM

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

**Cc:** Starling, Joseph <joseph.starling@ncdoi.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

**Subject:** RE: Temporary Rule 11 NCAC 05A .1001

Travis,

Thanks for speaking with me about this issue this morning. Please find below the Office of the State Fire Marshal's (OSFM) response to your inquiry, which I will also include in our response to your requests for changes that you sent over this afternoon.

OSFM relies on both the general rulemaking authority granted to it pursuant to G.S. 58-78A-2 and the specific rulemaking authority granted to it pursuant to Section 1F.4 of S.L. 2024-57 to promulgate temporary rule 11 NCAC 05A .1001. Section 1F.4.(a) of S.L. 2024-57 grants OSFM the authority to “**adopt** rules ... that relate to the placement, construction, installation, and connection of temporary manufactured and modular dwellings.” See S.L. 2024-57, s. 1F.4.(a) (emphasis added). Section 1F.4.(a) similarly grants OSFM the authority to “**adopt** rules to ensure that any person that places, constructs, installs, and connects a temporary manufactured and modular dwelling meets the manufacturer’s installation instructions and applicable provisions of the North Carolina State Building Code and the State of North Carolina Regulations for Manufactured Homes.” *Id.* (emphasis added).

The expiration of Section 1F.4 of S.L. 2024-57 on March 1, 2025, pursuant to Section 1F.4.(c) of the session law, is not relevant to the current procedural step of the rulemaking process. There is no provision in Section 1F.4 of S.L. 2024-57 that requires review of a rule adopted pursuant to that section by the Rules Review Commission or entry of such a rule into the North Carolina Administrative Code prior to the expiration of OSFM’s statutory authority to **adopt** the rule. See S.L. 2024-57, s. 1F.4. Nor is there any provision that imposes an expiration date for rules adopted pursuant to Section 1F.4. Imposing such requirements now would be contrary to both the plain meaning of Section 1F.4 of S.L. 2024-57 and its clear legislative intent. *Id.*

Pursuant to Section 1F.4.(c) of S.L. 2024-57, OSFM’s authority to **adopt** rules described in Section 1F.4.(a) of S.L. 2024-57 expires on March 1, 2025. OSFM already complied with this deadline and exercised all authority required to promulgate the rule when it finally adopted 11 NCAC 05A .1001 under temporary rulemaking procedures on February 7, 2025. Consequently, according to the plain meaning of Section 1F.4 of S.L. 2024-57, Section 1F.4.(c)’s expiration date provision would prevent OSFM from **adopting** the rules described therein after March 1, 2025, but does not prevent the **entry** of rules into the North Carolina Administrative Code properly adopted by OSFM before the statutorily prescribed deadline.

Moreover, there is clear legislative intent supporting the interpretation that Section 1F.4.(c)’s expiration provision does not prevent promulgation of a rule adopted by OSFM prior to March 1, 2025 with an effective date March 1, 2025, or even a date thereafter. First, the General Assembly has enacted session laws that impose express expiration dates for rules adopted pursuant to the rulemaking authority granted therein, even with respect to the same natural disaster (Hurricane Helene) that led to the enactment of Section 1F.4 of S.L. 2024-57. For example, Section 4E.1.(e) of S.L. 2024-53 provides that, “[n]otwithstanding G.S. 150B-21.1A(d), an emergency rule adopted pursuant to this section shall expire March 1, 2025.” See S.L. 2024-53, s. 4E.1.(e). Section 4E.1.(f) of the same session law provides that the preceding subsections granting emergency rulemaking authority to various agencies

also expire March 1, 2025. *Id.* at s. 4E.1.(f). Therefore, the General Assembly has shown that it will expressly provide an expiration date for rules adopted pursuant to session laws granting specific rulemaking authority when it intends for such rules to expire by a certain date. The inclusion of both (1) an expiration date for the rules adopted pursuant to Section 4E.1 of S.L. 2024-53 and (2) an expiration date for the authority to adopt the rules described therein shows that the General Assembly understands the difference between an expiration of the authority to adopt rules and the expiration of the rules themselves. In contrast, the General Assembly provided no such expiration date in Section 1F.4 of S.L. 2024-57, and instead opted to only impose a deadline by which OSFM's authority to adopt the rules described therein expires. Consequently, the Rules Review Commission may review 11 NCAC 05A .1001 at its regularly scheduled February 2025 meeting and, if the Commission approves the rule, direct Office of Administrative Hearings staff to enter the rule into the North Carolina Administrative Code with an effective date of March 1, 2025.

Please let me know if you have any questions or would appreciate presentation of additional authority supporting OSFM's position on your inquiry. As I mentioned above, we will include this argument in response to your requests for changes and will submit our response to your requests as promptly as possible.

Thanks,  
Kyle

**Kyle Heuser**  
**Assistant General Counsel**

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**North Carolina**  
**Office of State Fire Marshal**  
1202 Mail Service Center  
Raleigh, NC 27699-1202  
919.647.0100

**From:** [Wiggs, Travis C](#)  
**To:** [Heuser, Kyle](#)  
**Cc:** [Burgos, Alexander N](#)  
**Subject:** Office of Fire Marshall Temporary Rule-February 2025 RRC Meeting  
**Date:** Monday, February 10, 2025 12:35:55 PM  
**Attachments:** [2\\_2025\\_Office of Fire Marshall Temp Rule Request for Changes .docx](#)

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Good afternoon,

I'm the attorney who reviewed the temporary rule submitted by the Office of the State Fire Marshall for the February 2025 RRC meeting. The RRC will formally review this Rule at its meeting on Thursday, February 27, 2025, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised rule and answers to me via email, no later than 5 p.m. on February 20, 2025. Let me know if you have any questions.

Thank you.

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



## Burgos, Alexander N

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**From:** Heuser, Kyle  
**Sent:** Friday, February 7, 2025 1:53 PM  
**To:** Rules, Oah  
**Cc:** McGhee, Dana; Burgos, Alexander N; Taylor, Brian T; Starling, Joseph; Roegner, Rob; Roegner, Heather M  
**Subject:** 11 NCAC 05A .1001 - Temporary Rule Submission  
**Attachments:** 11 NCAC 05A 1001.docx; Form 0500 (11 NCAC 05A 1001) (signed).pdf

Good afternoon, Rules Division:

Please find attached (1) a copy of Rule 11 NCAC 05A .1001, which was adopted today by the State Fire Marshal; and (2) the related Form 0500. Please let me know if you require anything else from the Office of the State Fire Marshal to place the rule on the Commission's February meeting agenda.

Thanks,  
Kyle

**Kyle Heuser**  
**Assistant General Counsel**

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**North Carolina**  
**Office of State Fire Marshal**  
1202 Mail Service Center  
Raleigh, NC 27699-1202  
919.647.0100

## Burgos, Alexander N

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**From:** Wiggs, Travis C  
**Sent:** Friday, February 7, 2025 4:12 PM  
**To:** Heuser, Kyle; Starling, Joseph  
**Cc:** Burgos, Alexander N  
**Subject:** Temporary Rule 11 NCAC 05A .1001

Kyle,

Good afternoon. I've been given temporary rule 11 NCAC 05A .1001 to review for consideration at the February 26<sup>th</sup> meeting. Form 0500 cites the authority and reason for the temporary rule as Section 1F.4 of S.L. 2024-57. Section 1F.4(c) says, "This section expires on March 1, 2025." How can this temporary rule become effective March 1, 2025 if the authority for the rule expires on the same date? Is your agency relying solely on G.S. 58-78A-2 as authority to promulgate this rule?

Thanks and have a great weekend.

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

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**From:** Wiggs, Travis C  
**Sent:** Tuesday, January 28, 2025 1:30 PM  
**To:** Heuser, Kyle <[kyle.heuser@ncdoi.gov](mailto:kyle.heuser@ncdoi.gov)>; Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Subject:** RE: Question re Timing for Submission of Temporary Rule

Kyle,

Thank you for the email. G.S. 150B-21.1(b) says the RRC must review the temporary "within 15 business days of receiving", so please don't submit the rule to OAH before February 7, 2025.

Thanks,

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

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**From:** Heuser, Kyle <[kyle.heuser@ncdoi.gov](mailto:kyle.heuser@ncdoi.gov)>  
**Sent:** Tuesday, January 28, 2025 11:01 AM  
**To:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>; Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Subject:** Question re Timing for Submission of Temporary Rule

Good morning, Brian and Travis,

A quick question for you regarding the timing of submitting a temporary rule. The public comment period for 11 NCAC 05A .1001 ends on January 31, 2025. Am I correct in understanding that it would be the Commission's preference that I submit the temporary rule to OAH on or after February 6, 2025 so that the 15-business day review deadline extends to the date of the Commission's February meeting? Thanks!

Kyle

**Kyle Heuser**  
**Assistant General Counsel**

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**North Carolina**  
**Office of State Fire Marshal**  
1202 Mail Service Center  
Raleigh, NC 27699-1202  
919.647.0100

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