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

AGENCY: Building Code Council

RULE CITATION: 2018 NC Residential Code N1103.3.1, 2018 NC Energy Code R403.3.1,

C403.2.9

DEADLINE FOR RECEIPT: Friday, February 10, 2023.

<u>PLEASE NOTE:</u> 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:

For each of the changes, I would add the relevant provision of SL 2022-46 as well as the cite to SL 2022-6. For example, for C403.2.9, I would revise as follows:

"Commercial Spaces Insulation Rule per N.C. Session Law 2022-6 Section 20.10A.(c) and N.C. Session Law 2022-46 Section 26.(b), expires 3/17/24.

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



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

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VOLUME:

ISSUE:

1. Rule-Making Agency:				
North Carolina Building Code Council				
2. Rule citation & name:				
Section N1103.3.1 of the 2018 N.C. Residential Code for One- and Two-Family Dwellings; Sections R403.3.1 and C403.2.9 of N.C. Energy Code				
3. Action: Adoption Amendment Repeal				
4. Was this an Emergency Rule: Yes Effective date:				
5. Provide dates for the following actions as applicable:				
a. Proposed Temporary Rule submitted to OAH: ^{27 October 2022}				
b. Proposed Temporary Rule published on the OAH website: ^{27 October} 2022				
c. Public Hearing date: 13 December 2022				
d. Comment Period: ²⁷ October 2022 to 13 December 2022				
e. Notice pursuant to G.S. 150B-21.1(a3)(2): ^{27 October 2022}				
f. Adoption by agency on: ¹³ December 2022				
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]:				
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.				
A serious and unforeseen threat to the public health, safety or welfare. The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: N.C. Sess. L. 2022-6 (ss. 20.10.(c), 201.10A.(c)); N.C. Sess. L. 2022-46 (ss. 26.(a), 26.(b))				
Effective date: N.C. Sess. L. 2022-6 (eff. March 17, 2022); N.C. Sess. L. 2022-46 (eff. July 7, 2022)				
A recent change in federal or state budgetary policy.				
Effective date of change: A recent federal regulation.				
Cite:				
Effective date:				
A recent court order. Cite order:				
Other:				
Explain:				
Through the enactment of N.C. Sess. L. 2022-6, the General Assembly directed the North Carolina Building Code Council to adopt a temporary rule amending Section N1103.3.1 of the 2018 North Carolina Residential Code for One- and Two- Family Dwellings (See Section 20.10.(c) of N.C. Sess. L. 2022-6 (eff. 3/17/2022) and Section 26.(a) of N.C. Sess. L. 2022-46 (eff. 7/7/2022) and amending Sections C403.2.9 and R403.3.1 of the 2018 North Carolina Energy Conservation Code (See Section 20.10A.(c) of N.C. Sess. L. 2022-6 (eff. 3/17/2022) and Section 26.(b) of N.C. Sess. L. 2022-46 (eff. 7/7//2022, "applies retroactively to March 17, 2022."). Pursuant to Section 20.10B.(a) of N.C. Sess. L. 2022-6, "[n]otwithstanding G.S. 150B-21.1(d), temporary rules adopted by the Council pursuant to Section 20.10 and Section 20.10A shall expire two years after the date this section becomes law." Section 20.10B of N.C. Sess. L. 2022-6 became law on 17 March 2022. Accordingly, this temporary rule will expire 17 March 2024.				

7. Why is adherence to notice and hearing requirements continuous rule is required? In this case, the General Assembly has expressed its intent that the	e North Carolina Building Code Council forgo the procedures
required for adoption of a permanent rule and has instead required rules to amend" Section N1103.3.1 of the 2018 North Carolina Re	e North Carolina Building Code Council forgo the procedures of that the North Carolina Building Code Council "adopt teporary esidential Code for One- and Two-Family Dwellings and Sections revation Code in Sections 20.10.(c) and 20.10A.(c) of N.C. Sess. L.
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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:	10. Signature of Agency Head*:
David Rittlinger Phone:	1 AMM1
(919)647-0008 E-Mail:	* If this function has been delegated (reassigned) pursuant
david.rittlinger@ncdoi.gov	to G.S. 143B-10(a), submit a copy of the delegation with this form.
Agency contact, if any:	Typed Name:
Phone:	Bridget Herring Title: Chair North Careline Building Code Council
E-Mail:	Chair, North Carolina Building Code Council E-Mail: herring.ncbcc@gmail.com
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2018 NC Energy Conservation Code:

C403.2.9 Duct and Plenum Insulation and Sealing.

Supply and return air ducts and plenums shall be insulated with a minimum of R-6 insulation where located in unconditioned spaces inside the building. Where located outdoors, supply and return ducts shall be insulated with a minimum of R-8 insulation in *Climate Zones* 3 and 4 and a minimum of R-12 insulation in *Climate Zone* 5. Where located within a building envelope assembly, such as a wall of the building thermal envelope, the duct or plenum shall be separated from the building exterior or unconditioned space by a minimum of R-8 insulation in *Climate Zones* 3 and 4 and a minimum of R-12 insulation in *Climate Zone* 5.

Commercial Spaces Insulation Rule per N.C. Session Law 2022-6 Section 20.10A.(c) expires 3/17/24

Supply and return air ducts located in ventilated or non- ventilated unconditioned spaces, other than attic spaces, shall be insulated with a minimum of R-4.0 insulation in Climate Zones 3 and 4 and a minimum of R-6.0 insulation in Climate Zone 5. Supply and return air ducts located in ventilated or non- ventilated unconditioned attic spaces shall be insulated to a minimum R-6.0.

Exception: Where located within equipment.

Ducts, air handlers and filter boxes shall be sealed. Joints and seams shall comply with Section 603.9 of the *International Mechanical Code*.

2018 NC Energy Conservation Code R403.3.1 Insulation (Mandatory).

Supply and return ducts in unconditioned space and outdoors shall be insulated to a minimum R-8. Supply ducts inside *semi-conditioned space* shall be insulated to a minimum R-4; return ducts inside conditioned and *semi-conditioned space* are not required to be insulated. Ducts located inside conditioned space are not required to be insulated other than as may be necessary for preventing the formation of condensation on the exterior of cooling ducts.

Residential Spaces Insulation Rule per N.C. Session Law 2022-6 Section 20.10 (c) expires 3/17/24

Supply and return air ducts located in ventilated or non- ventilated unconditioned spaces, other than attics, shall be insulated to a minimum R-4.2. Supply and return air ducts located in ventilated or non-ventilated unconditioned attic spaces shall be insulated to a minimum R-6.0.

2018 NC Residential Code:

N1103.3.1 (R403.3.1) Insulation (Mandatory). Supply and return ducts in unconditioned space and outdoors shall be insulated to a minimum R-8. Supply ducts inside *semi-conditioned space* shall be insulated to a minimum R-4; return ducts inside conditioned and *semi-conditioned space* are not required to be insulated. Ducts located inside conditioned space are not required to be insulated other than as may be necessary for preventing the formation of condensation on the exterior of cooling ducts.

Residential Spaces Insulation Rule per N.C. Session Law 2022-6 Section 20.10 (c) expires 3/17/24

Supply and return air ducts located in ventilated or non- ventilated unconditioned spaces, other than attics, shall be insulated to a minimum R-4.2. Supply and return air ducts located in ventilated or non-ventilated unconditioned attic spaces shall be insulated to a minimum R-6.0.