

Burgos, Alexander N

Subject: FW: [RRC.InterestedPersons] Proposed RRC Incorporation Guidance
Attachments: OSFM Public Comment on RRC Draft Guidance on Incorporation by Reference.pdf

From: Heuser, Kyle <kyle.heuser@ncdoi.gov>
Sent: Thursday, March 19, 2026 4:51 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: FW: [RRC.InterestedPersons] Proposed RRC Incorporation Guidance

Good afternoon, Seth,

Please find attached a public comment from the Office of the State Fire Marshal regarding the RRC's draft guidance on incorporation by reference. Thank you for facilitating the opportunity to provide a public comment.

Thank you,
Kyle Heuser

Kyle Heuser
Assistant General Counsel



North Carolina
Office of State Fire Marshal
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BRIAN TAYLOR
STATE FIRE MARSHAL

March 19, 2026

VIA EMAIL ONLY

Seth Ascher
Staff Counsel
Rules Review Commission
Seth.ascher@oah.nc.gov

Re: Public Comment on Draft Guidance regarding Incorporation by Reference under G.S. § 150B-21.6

Dear Mr. Ascher,

The Office of the State Fire Marshal appreciates the Rules Review Commission's publication of draft guidance concerning incorporation by reference under G.S. § 150B-21.6. Pursuant to G.S. §§ 143-137(c) and 143-137.1(c), the Office of the State Fire Marshal provides the professional and administrative staff that support the Building Code Council and the Residential Code Council in carrying out their statutory responsibilities. That support includes managing the rulemaking process under Article 2A of Chapter 150B, preparing and formatting code adoptions and amendments, coordinating publication and submission requirements, and ensuring compliance with the Administrative Procedure Act. Accordingly, the Office of the State Fire Marshal has a significant institutional interest in the proper interpretation and application of incorporation by reference requirements, as those requirements directly shape how the North Carolina State Building Code is drafted, formatted, and adopted.

The North Carolina State Building Code is adopted pursuant to G.S. § 143-138 in accordance with the procedural requirements of Article 2A of Chapter 150B. Incorporation by reference is an essential and longstanding feature of technical rulemaking in the building code context. Modern building and fire codes rely heavily on nationally recognized model codes and consensus standards, including standards developed through national organizations and regularly updated through transparent processes. Incorporation by reference allows the Councils to reference those technical materials with precision while maintaining compliance with the notice, comment, and review requirements set forth in Chapter 150B.

The draft guidance provides helpful clarification regarding the use of website links to satisfy the statutory requirement that agencies specify where incorporated materials may be obtained and the cost of those materials as of the date of adoption. Clear direction on link formatting, citation of historical versions, treatment of subsequent amendments, and accessibility expectations promotes uniformity and predictability across rulemaking agencies. That predictability is particularly important in large-scale technical rulemakings such as the periodic adoption of updated editions of the North Carolina State Building Code,

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where clarity regarding incorporation mechanics significantly affects formatting, publication, and administrative workload.

OSFM understands G.S. § 150B-21.6 to apply to all rulemaking conducted pursuant to Article 2A, including adoption and amendment of provisions within the North Carolina State Building Code. The draft guidance appears consistent with that statutory framework and recognizes incorporation by reference as a lawful and workable mechanism within the Administrative Procedure Act. In prior rulemaking cycles, uncertainty regarding the interaction between G.S. § 143-138 and G.S. § 150B-21.6 created administrative complexity and required substantial additional formatting efforts beyond what would otherwise have been necessary. The Commission's effort to articulate clear expectations in advance of future rulemakings is therefore welcome and constructive.

Clear and consistent guidance on incorporation by reference will assist the Building Code Council, the Residential Code Council, and other rulemaking bodies in carrying out their statutory responsibilities efficiently while maintaining full compliance with Chapter 150B. OSFM appreciates the issuance of guidance upon which it may rely in assisting the Councils with incorporation by reference in future rulemaking cycles.

Thank you for the opportunity to comment.

Sincerely,



Kyle Heuser
Assistant General Counsel
Office of the State Fire Marshal