



**PROPOSED TEMPORARY RULE FOR
PUBLICATION ON THE OAH WEBSITE**

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Proposed Temporary Rule [G.S. 150B-21.1(a3)]



Proposed Temporary Rule simultaneously adopted as an emergency rule [G.S. 150B-21.1A(a)]

1. Rule-Making Agency: North Carolina Building Code Council

2. Proposed Action -- Mark the appropriate box(es) and list rule citation(s) beside proposed action:

ADOPTION:

AMENDMENT: Section N1103.3.1 of the 2018 North Carolina Residential Code for One- and Two-Family Dwellings, and Sections R403.3.1 and C403.2.9 of the 2018 North Carolina Energy Conservation Code.

REPEAL:

3. Public Hearing:

Date: 13 December 2022

Time: 9:00 a.m.

Location: Albemarle Building, 325 N. Salisbury Street, Raleigh, N.C. 27603, 2nd Floor Training Room 245

4. Reason for agency adopting rule(s) under temporary action:

- 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), 20.10A.(c)); N.C. Sess. L. 2022-46 (s. 26(a))
Effective date: 7 July 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). 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.

5. Comments from the public shall be directed to: Name: Carl Martin Address: N.C. Department of Insurance, 1202 Mail Service Center, Raleigh, NC 27699-1202 Phone (optional): Fax (optional): E-Mail (optional): carl.martin@ncdoi.gov	
6. Comment Period Starts: October 27, 2022	Comment Period Ends: December 13, 2023
7. Rule-making Coordinator: David Rittlinger Address: N.C. Department of Insurance 1202 Mail Service Center Raleigh, NC 27699-1202 Phone: (919) 647-0008 E-Mail: david.rittlinger@ncdoi.gov Agency contact, if any: Phone: E-mail:	8. The Agency formally proposed the text of this rule(s) on Date: October 27, 2022 9. Signature of Agency* Head or Rule-making Coordinator: <hr style="width: 30%; margin-left: auto; margin-right: auto;"/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: David Rittlinger Title: Chief Code Consultant

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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: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: <input type="checkbox"/> Yes Effective date: <input checked="" type="checkbox"/> No
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)]: 17 November 2022
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> 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), 20.10A(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) <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> 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 contrary to the public interest and the immediate adoption of the rule is required?

In this case, the General Assembly has expressed its intent that the North Carolina Building Code Council forego the procedures required for the adoption of a permanent rule and has instead required that the North Carolina Building Code Council "adopt temporary rules to amend" Section N1103.3.1 of the 2018 North Carolina Residential Code for One- and Two-Family Dwellings, and Sections C403.2.9 and R403.3.1 of the 2018 North Carolina Energy Conservation Code in Sections 20.10.(c) and 20.10A.(c) of N.C. Sess. L. 2022-6 and Sections 26.(a) and 26.(b) of N.C. Sess. L. 2022-46.

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:

David Rittlinger

Phone:

(919) 647-0008

E-Mail:

david.rittlinger@ncdoi.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:

* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name:

Bridget Herring

Title:

Chair, North Carolina Building Code Council

E-Mail: herring.ncbcc@gmail.com

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

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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.