

REQUEST FOR TECHNICAL CHANGE

AGENCY: Code Officials Qualification Board

RULE CITATION: All Rules Submitted

DEADLINE FOR RECEIPT: Friday, July 10, 2020

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 call our office to inquire concerning the staff recommendation.

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

On the Submission for Permanent Rule form, Box 9B, the first two sentences have nothing to do with these Rules. Please delete them without showing it as a change – just delete them.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2020

REQUEST FOR TECHNICAL CHANGE

AGENCY: Code Officials Qualification Board

RULE CITATION: 11 NCAC 08 .0602

DEADLINE FOR RECEIPT: Friday, July 10, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (b), line 24, I take it you are using "successfully completed" as that term is defined in Rule .0734(d)(3)?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2020

1 11 NCAC 08 .0602 is amended as published in NCR 34:18 1711 as follows:

2
3 **11 NCAC 08 .0602 NATURE OF PROBATIONARY CERTIFICATE**

4 (a) A probationary certificate may be issued as a building inspector, electrical inspector, mechanical inspector,
5 plumbing inspector, or fire inspector as set forth in 11 NCAC 08.0706, without ~~examination~~ examination, to any
6 newly employed or newly promoted code enforcement official who lacks a standard certificate that covers the new
7 position. A probationary certificate shall be issued for three years only and shall not be renewed. During the three-
8 year period, the official shall complete the requirements set forth in 11 NCAC 08 .0706 to qualify for the appropriate
9 standard certificate. A probationary certificate shall authorize the official, during the effective period of the
10 certificate, to hold the position of the type, level, and location specified. The certificate shall be conditioned on the
11 applicant's completion of a high school diploma or a high school equivalency certificate and meeting one of the
12 following:

- 13 (1) working under supervision sufficient, as determined by a supporting letter provided for in 11
14 NCAC 08 .0706(b), to protect the public health and safety;
- 15 (2) possessing a minimum of two years of design, construction, or inspection experience working
16 under a certified inspector or under a licensed professional engineer, registered architect, or
17 licensed contractor;
- 18 (3) possessing one of the experience qualifications listed in 11 NCAC 08 .0706 in each area of code
19 enforcement for which the probationary certificate is issued; or
- 20 (4) achieving a minimum score of 70 percent on the probationary prequalification exam administered
21 by the Board in each area of code enforcement for which the probationary certificate is issued.

22 (b) A probationary certificate as a residential changeout inspector set forth in 11 NCAC 08 .0734 may be issued to
23 any employed code enforcement official, whose employment can be verified pursuant to 11 NCAC 08 .0734(d)(2),
24 who lacks a standard certificate as a residential changeout inspector and who successfully completes a residential
25 changeout inspections course set forth in 11 NCAC 08 .0734(d)(3). A probationary certificate shall be issued for
26 three years only and shall not be renewed. During the three-year period, the official shall complete the requirements
27 set forth in 11 NCAC 08 .0706 to qualify for the appropriate standard certificate. A probationary certificate as a
28 residential changeout inspector shall authorize the official, during the effective period of the certificate, to hold the
29 position set forth in 11 NCAC 08 .0734(a). The probationary certificate shall be conditioned on the applicant's
30 completion of a high school diploma or a high school equivalency certificate and working under the direct
31 supervision of a person who possesses, or persons who collectively possess, standard certificates as an electrical
32 inspector III, mechanical inspector III, and plumbing inspector III or an individual holding a residential changeout
33 inspector certificate and five years of code enforcement experience.

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35 *History Note: Authority G.S. 143-151.12(2); ~~143-151.13(d)~~; 143.151.13;*
36 *Eff. June 28, 1979; Amended Eff. December 1, 1982;*

1 *Temporary Amendment Eff. January 1, 1983; For a Period of 120 Days to Expire on April 30,*
2 *1983;*
3 *Amended Eff. December 1, 2017; July 18, 2002; October 1, 1992; February 1, 1991; May 1,*
4 *1983;*
5 *Readopted Eff. ~~July 1, 2019.~~ July 1, 2019;*
6 *Amended Eff. August 1, 2020.*

1 11 NCAC 08 .0702 is amended as published in NCR 34:18 1711 as follows:

2
3 **11 NCAC 08 .0702 NATURE OF STANDARD CERTIFICATE**

4 (a) The Board shall issue one or more standard certificates to each code enforcement official demonstrating the
5 qualifications set forth in ~~11 NCAC 08 .0706 and .0707~~, 11 NCAC 08 .0706, .0707, and .0734. Standard certificates
6 are available for each of the following types of qualified code enforcement officials:

- 7 (1) building inspector;
- 8 (2) electrical inspector;
- 9 (3) mechanical inspector;
- 10 (4) plumbing inspector; ~~and~~
- 11 (5) ~~fire inspector~~; fire inspector; and
- 12 (6) residential changeout inspector.

13 (b) The holder of a standard certificate may practice code enforcement only within the inspection area and level
14 described upon the certificate issued by the Board. A code enforcement official may qualify and hold ~~one or more~~
15 ~~certificates~~; more than one certificate. These certificates may be for different levels in different types of positions.

16 (c) A code enforcement official holding a certificate indicating a specified level of proficiency in a particular type
17 of position may hold a position calling for that type of qualification anywhere in the ~~State of North Carolina~~; State.
18 A standard certificate must be renewed annually in order to remain valid.

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20 *History Note: Authority G.S. 143-151.13; 143-151.16;*
21 *Eff. January 15, 1980;*
22 *Amended Eff. August 1, 2004; August 1, 1990; July 1, 1983;*
23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~January 9,~~*
24 *~~2018~~; January 9, 2018;*
25 *Amended Eff. August 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Code Officials Qualification Board

RULE CITATION: 11 NCAC 08 .0734

DEADLINE FOR RECEIPT: Friday, July 10, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(1), line 6, replace "Subparagraph 2 of this Rule" with "Subparagraph (2) of this Paragraph" As this was published correctly in the Register, you will not show it as a change; simply do it.

In (a)(2), lines 9 and 10, replace "The following types of inspections may be performed by those certified as a residential changeout inspector: The replacement of heating and air conditioning appliances and water heaters..." with "A residential changeout inspector may inspect the replacement of heating and air conditioning appliances and water heaters..."

In (a)(2)(B), lines 14-15, what are "minor adjustments in the same general vicinity"? Does your regulated public know?

In (a)(2)(C), line 17, I suggest deleting "that" after "except"

On line 18, please replace the colon after "device" with a comma

On line 19, please insert an "and" after "allowed;"

In (b), please clarify what is happening here in order to ensure compliance with the APA. If the log is going to set any requirements, those need to be set forth in Rule. If the log is simply a way for the individual to document the inspections and supervision, please clarify this. This is especially important in light of the language in (e)(2)(B).

In (c), line 27, please make "rules" lowercase. As this was published correctly in the Register, do not show it as a change; simply do it.

On line 28, what are these "equivalent qualifications"? How are those determined? Will this be on a case-by-case basis?

And doesn't (c) only apply to (d)(1)? If so, then why not merge (c) with the language in (d)(1)? If you do this, please be sure to update your cross-reference in (e) on Page 2, line 12.

In (d)(2), lines 33 and 36, please move the comma to inside the quotation marks.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2020

And I am only asking – G.S. 143-151.8(a)(3) also addresses code enforcement as it relates to an employee of a federally recognized Indian Tribe employed to perform inspections on tribal lands under G.S. 153A-350.1, as an individual contracting with the State or a local government or a federally recognized Indian Tribe who performs inspections on tribal lands under G.S. 153A-350.1 to conduct inspections, or as an individual who is employed by a company contracting with a county or a city to conduct inspections. Are those not applicable here?

In (d)(3), Page 2, line 1, why do you say, “make a grade of a least 70 on courses developed by the Board.”? Isn’t that addressed on lines 2-3, ‘achieving a minimum score of 70 percent on the course exam.’? Why not state “successfully complete courses developed by the Board. For the purposes of this Rule, “successful completion” is defined as...”

And I take it that the developed courses other than law and administration and the residential changeout course will be added to this Rule, or put into another rule, at a later date?

On line 4, what is this “State” examination? Is it what is addressed in (d)(4)? If so, then shouldn’t the terms be the same?

I think that the sentence on lines 4-5, “For the purpose of... Paragraph” should be the last sentence of this Subparagraph.

On line 8, “development” of what or whom?

In (e)(2)(B), define “successful completion.” It is clearly not what is defined in (d)(3) of this Rule, so what is contemplated here?

In (e)(2)(C), you require successful completion of the law and administrative course. However, in (e), line 12, you require compliance with Paragraph (d), which requires completion of that and another course in Subparagraph (d)(3). Why are you reciting that requirement here?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 25, 2020

1 11 NCAC 08 .0734 is adopted as published in NCR 34.18 1711 – 1712 as follows:

2
3 **11 NCAC 08 .0734 RESIDENTIAL CHANGEOUT INSPECTOR**

4 (a) Qualifications and types:

5 (1) A residential changeout inspector shall be authorized to inspect the replacement of a residential
6 appliance as described in Subparagraph 2 of this Rule for one-and-two family dwellings, and
7 individual residential units of condominiums and apartments provided the individual residential
8 appliance serves only that residential dwelling unit.

9 (2) The following types of inspections may be performed by those certified as a residential changeout
10 inspector: The replacement of heating and air conditioning appliances and water heaters, provided
11 that all of the following apply:

12 (A) the new appliance requires no alterations to the existing ducting, fuel type, venting, or
13 pipng systems other than that required for transitioning to the new appliance;

14 (B) the new appliance does not require relocation, excluding minor adjustments in the same
15 general vicinity;

16 (C) the installation of the new appliance does not require the relocation or addition to the
17 existing electrical system, except that the replacement of the appliance's branch circuit
18 overcurrent device; or the replacement of the appliance's branch circuit where such circuit
19 does not pass through a rated assembly shall be allowed;

20 (D) the electrical branch circuit serving the appliance is single phase.

21 (b) An inspection performance log shall be developed and provided by the North Carolina Department of
22 Insurance, Office of State Fire Marshal and shall describe the types of systems and specify the level of
23 supervision of each inspection required to be documented. The inspection performance log is available on
24 the Office of State Fire Marshal website. The inspection performance log shall describe the criteria for
25 authenticating the applicant and supervisors' qualifications, and the inspections performed. Inspections do
26 not have to be performed on the same building.

27 (c) Whenever a provision of the Rules in this Section requires a high school education or other education and
28 experience qualifications, the Board may approve equivalent qualifications.

29 (d) Every applicant shall:

30 (1) provide documentation that the applicant possesses a minimum of a high school education or a high
31 school equivalency certificate;

32 (2) provide notarized certification by a city or county manager, clerk, or director of inspection department
33 that the applicant will be performing "code enforcement", as defined in G.S. 143-151.8(a)(3), as an
34 employee of that city or county; or provide certification by the head of the Engineering and Building
35 Codes Division of the North Carolina Department of Insurance that the applicant will be performing
36 "code enforcement", as defined in G.S. 143-151.8(a)(3), for a State department or agency;

- 1 (3) make a grade of at least 70 on courses developed by the Board. Successful completion is defined as
2 attendance of a minimum of 80 percent of the hours taught and achieving a minimum score of 70 percent
3 on the course exam. All applicants must successfully complete a law and administration course and a
4 residential changeout inspections course. For the purpose of entry into the State examination, courses
5 must be completed within five years of the exam in Subparagraph (d)(4) of this Paragraph. These courses
6 shall be administered and taught in the N.C. Community College System or other educational agencies
7 accredited by a regional accrediting association. The North Carolina Department of Insurance, Office of
8 State Fire Marshal may administer and teach certification courses for the purposes of development; and
9 (4) achieve a passing grade of 70 percent on the written examination administered by the Board.

10 (e) Residential Changeout Inspector. A standard certificate, residential changeout inspector, shall be issued to
11 any applicant who possesses a probationary residential changeout inspection certificate pursuant to Rule 11
12 NCAC 08 .0602, complies with Paragraphs (c) and (d) of this Rule, and one of the following education and
13 experience qualifications:

- 14 (1) possess any level standard certificate as an electrical inspector, mechanical inspector, or plumbing
15 inspector; or
16 (2) all the following:
17 (A) at least six months of conducting residential changeout inspections with a probationary residential
18 changeout inspection certificate;
19 (B) successful completion of an inspection performance log as administered by the North Carolina
20 Department of Insurance, Office of State Fire Marshal; and
21 (C) successful completion of a law and administrative course.

22 History Note: Authority G.S. 143-151.12; 143-151.13;

23 Adopted Eff. August 1, 2020.