



EMERGENCY RULE-MAKING FINDINGS OF NEED [G.S. 150B-21.1A]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency:

Code Officials Qualification Board

2. Rule citation(s):

11 NCAC 08 .0602

3. Adoption by agency on:

October 28, 2025

4. Date agency requests entry of emergency rule in the Code:

October 30, 2025

5. What is the need for an emergency rule?

The Code Officials Qualification Board has identified an immediate and serious threat to public safety resulting from the operation of 11 NCAC 08 .0602(a)(4). The current rule allows an individual to obtain a probationary Level III inspector certificate solely by achieving a passing grade in a community college course, without having demonstrated any field experience, having passed the Board's standardized examination, or having held a probationary Level I or probationary Level II certificate. This pathway enables individuals to perform inspections on high-rise and other complex structures—occupancies requiring the highest level of technical competency— and sophisticated systems without the qualifications necessary to identify critical life-safety hazards. The Board has verified that this outcome is contrary to the statutory purpose of G.S. 143-151.13, which establishes a progressive framework of qualifications to protect public safety through competent code enforcement. Emergency rulemaking is necessary to immediately suspend the use of Paragraph (a)(4) as a qualifying condition for probationary certificates until a permanent amendment can be adopted.

6. Has the agency provided the public with abbreviated notice? If so, describe.

Notice has been provided to the Board's mailing list of interested persons and posted on the web page of the Office of the State Fire Marshal dedicated to rules adopted by the Board.

7. Why is adherence to notice and hearing requirements contrary to the public interest and that the immediate adoption of the rule required by a serious and unforeseen threat to the public health or safety?

See attached.

8. Does the agency have specific statutory authority for the adoption of an emergency rule? If so, has the agency met the statutory criteria for adoption? (attach copy of statutory authority)

No.

9. Has the agency submitted the proposed temporary rule for publication on the Internet in accordance with G.S. 150B-21.1(a3)?

☒ Yes

☐ No

10. 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

11. Rule-making Coordinator:

Kyle Heuser

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919.647.0100

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Agency contact, if any:

Joseph Starling

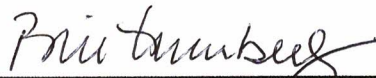
Phone:

919.397.6159

E-Mail:

joseph.starling@ncdoi.gov

12. 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: Bill Thunberg

Title: Chair

E-Mail: billthunberg@gmail.com

REVIEW BY THE CODIFIER OF RULES

Approved. Entered into the North Carolina Administrative Code on: _____

Reviewed By: _____

Date: _____

Comments:

Statement does not meet the criteria.

Reviewed By: _____

Date: _____

Comments:

Why is adherence to notice and hearing requirements contrary to the public interest and why is immediate adoption of the rule required by a serious and unforeseen threat to the public health or safety?

Adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary to the public interest because the continued operation of 11 NCAC 08 .0602(a)(4) poses an immediate and serious threat to life safety and the integrity of building inspections across North Carolina. The provision currently allows an applicant to qualify for a probationary Level III code enforcement certificate solely by obtaining a passing grade in a community college course, without (1) meeting any of the Board's experience requirements, (2) passing its standardized examinations, or (3) holding a probationary Level I or Level II certificate. This pathway bypasses the graduated certification structure established in G.S. 143-151.13 and allows unqualified individuals to be placed in positions of substantial responsibility for the safety of the public.

Under G.S. 143-151.13, probationary certificates authorize their holders to perform the duties of a code enforcement official for the type and level of certificate issued. A probationary Level III certificate therefore authorizes the holder to perform inspections of the most complex structures regulated by the State Building Code, including high-rise buildings, large assembly occupancies, hospitals, industrial facilities, and other high-risk environments. These inspections require a deep understanding of structural systems, fire-resistance construction, means of egress, mechanical and electrical systems, and life-safety principles. Individuals qualifying under 11 NCAC 08 .0602(a)(4) have not demonstrated any verified experience or competency in these subjects. Such individuals may have never performed a single inspection and may possess no practical code enforcement experience. The Board has verified that, under current community college admission practices, a person with only a high school diploma or its equivalent can enroll in and complete a Level III inspector course, without ever having taken a Level I or II inspector course, pass the end of course exam developed by the instructor of the community college course, and thereby qualify for a Level III probationary certificate under the rule.

This situation represents a serious and unforeseen threat to public health and safety. When the Board adopted the most recent amendment to 11 NCAC 08 .0602(a)(4), it did not understand that community colleges would permit open enrollment in Level III inspector courses without prerequisites. The result is a pathway that undermines the statutory intent of G.S. 143-151.13, which requires progressive qualification through Levels I, II, and III to ensure that inspectors at each level possess the necessary technical knowledge and experience to competently enforce the State Building Code.

Allowing the current rule to remain in effect during the months required for permanent rulemaking under G.S. 150B-21.1 and 150B-21.2 would allow unqualified individuals to continue applying for and receiving probationary Level III certificates. Each such certificate holder could immediately begin performing inspections of structures that directly affect the safety of building occupants and emergency responders. These inspections encompass life-safety systems such as

fire suppression, smoke control, structural integrity, and egress design. Inadequate inspection of such systems can result in catastrophic consequences, including loss of life, property damage, and diminished public confidence in the State's code enforcement framework.

Immediate emergency rulemaking is therefore required to close this loophole without delay. Postponing action until after the completion of the standard notice and hearing process would perpetuate the issuance of improperly qualified Level III probationary certificates and expose the public to ongoing, preventable safety risks. The need to act expeditiously outweighs the procedural benefits of notice and hearing, which will be satisfied concurrently through the initiation of a temporary and permanent rulemaking process. The Board has determined that immediate adoption of this rule is necessary to protect the public from unsafe and noncompliant construction and to preserve the integrity of the code enforcement system established under Article 9C of Chapter 143 of the General Statutes.