



## 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 Code Officials Qualification Board

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

☐ ADOPTION:

☒ AMENDMENT: 11 NCAC 08 .0739 Mechanical Inspector Level I, II and III

☐ REPEAL:

3. Public Hearing:

Date: September 4, 2025

Time: 10:00am

Location: Office of State Fire Marshal, 1429 Rock Quarry Rd., Raleigh NC 27610

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:  
Effective date:  
☐ 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:

See attached.

<b>5. Comments from the public shall be directed to:</b> <b>Name:</b> Kyle Heuser <b>Address:</b> Office of the State Fire Marshal, 1429 Rock Quarry Rd., Raleigh, NC 27610  <b>Phone (optional):</b> 919.647.0100 <b>Fax (optional):</b> <b>E-Mail (optional):</b> OSFM.Rulemaking@ncdoi.gov	
<b>6. Comment Period Starts:</b> August 26, 2025	<b>Comment Period Ends:</b> September 19, 2025
<b>7. Rule-making Coordinator:</b> Kyle Heuser <b>Address:</b> Office of State Fire Marshal 1429 Rock Quarry Rd. Raleigh, NC 27610  <b>Phone:</b> 919.647.0100 <b>E-Mail:</b> OSFM.Rulemaking@ncdoi.gov  <b>Agency contact, if any:</b> Joseph Starling <b>Phone:</b> 919.397.6159 <b>E-mail:</b> joseph.starling@ncdoi.gov	<b>8. The Agency formally proposed the text of this rule(s) on</b> <b>Date:</b> August 19, 2025
	<b>9. Signature of Agency* Head or Rule-making Coordinator:</b>   <hr/> <b>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</b>  <b>Typed Name:</b> Kyle Heuser  <b>Title:</b> Rulemaking Coordinator

### **Justification for Temporary Rulemaking**

The Code Officials Qualification Board (COQB) recently adopted amendments to 11 NCAC 08 .0706 and adopted 11 NCAC 08 .0737 through .0741 as new rules to implement a “dual track” certification system for code officials beginning January 1, 2025. This system provides a “grandfathering” period under which a Level I or Level II code official certified before January 1, 2025 is authorized to inspect different types of structures and systems than a Level I or II code official certified on or after that date.

After the adoption of these rules, the Office of the State Fire Marshal (OSFM) – which provides staff support to the COQB – learned that its current certification database cannot accommodate this dual track certification structure. Specifically, the system cannot assign different scopes of inspection authority to inspectors with the same level designation based on their certification date.

As a result, OSFM has been forced to manually track the certification scopes of newly certified inspectors. Manual tracking presents an immediate and unforeseen threat to the public health, safety, and welfare for several reasons:

1. **Risk of Improper Inspection Assignments** – Without reliable system controls, there is a significant risk that newly certified inspectors could be assigned to perform inspections outside their authorized scope. Such inspections may overlook critical code requirements, leading to unsafe construction, undetected hazards, and potential injury or property damage.
2. **Potential for Incorrect Certifications** – Manual processing increases the likelihood of clerical or data entry errors. An inspector might be issued an incorrect certification level in the database, which could allow them to perform inspections they are not qualified to conduct.
3. **Liability and Enforcement Problems** – If unqualified inspections occur, it could expose local governments and the State to liability for unsafe structures and undermine enforcement actions when improper work is challenged in court.
4. **Loss of Public Confidence** – The inability to accurately certify and track code official qualifications could erode public trust in the building code enforcement system and in the COQB’s oversight of inspector competency.

The IT limitation was not known to the Board during the rulemaking process, and OSFM requires time to design a new certification database or procure one from a vendor. Until the technology solution is in place, it is necessary to temporarily amend the affected rules to delay the dual track provisions, thus preventing confusion, error, and unsafe inspection assignments.

Temporary rulemaking is therefore required to address this unforeseen threat to the public health, safety, and welfare and to maintain the integrity of the State’s building inspection program.