

Burgos, Alexander N

Subject: FW: [External] 21 NCAC 18B .0209 and 21 NCAC 18B .0404- Response to Request for Changes
Attachments: 21 NCAC 18B .0404 - Annual License Fees - Rule Amendment with Changes.docx; 21 NCAC 18B .0209 Fees - Rule Amendment with changes.docx

From: Reed Fountain <Reed.Fountain@youngmoorelaw.com>
Sent: Wednesday, April 26, 2023 2:32 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: [External] 21 NCAC 18B .0209 and 21 NCAC 18B .0404- Response to Request for Changes

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Please find attached and below the response of the State Board of Examiners of Electrical Contractors to your Request for Changes to the proposed amendments to:

21 NCAC 18B. 0209
and
21 NCAC 18B .0404.

In regards to 21 NCAC 18B. 0209, our response to your requested changes is as follow:

In (a), line 4, what is the “application and examination fee”? G.S. 87-44 refers to a fee “from applicants for examinations”. I’m assuming that’s what this fee refers to, but it seems to me that there’s a distinction between an “application fee” and a “fee from applicants for examination.” Also in (c) and (d) you refer to an “examination fee”. If these are the same fees, it makes sense to use the same language to refer to them throughout. If not, you need to clarify what is the application fee and what is the examination fee. Also, if you are charging an application fee, where is your statutory authority for that fee?

Response: We have made changes that we believe satisfy your suggested changes.

In (b), line 6, consider changing “reviews are supervised” to “reviews shall be supervised”.

Response: We have made a change that we believe satisfies your suggested change.

In (c), line 8, is it necessary to say “the examination fees for examinations in all classifications”? It seems like “the examination fees” would suffice and be clearer.

Response: We have made a change that we believe satisfies your suggested change.

In (d), line 11, you say the fee “shall be retained by the Board”, but in (e) you say the fee is “non-refundable”. For clarity’s sake, consider using one term to refer to this one idea.

Response: We have made a change that we believe satisfies your suggested change by using non-refundable consistently.

In (d)(1), line 14, you say the examination fee is \$60.00, when (a) says the “application and examination fee” is \$125.00. If this isn’t an oversight, the best I can figure is that of the \$125 fee, \$65 is apportioned as an “application fee” and \$60 is apportioned as an “examination fee”. Again, please clarify and if there is an “application fee” provide your statutory authority.

Response: We have made a change that we believe satisfies your suggested change and to make it clear that all fees are examination fees.

In (g), line 21, please correct to say “Subparagraph (d)(2) and Paragraph (e)”.

Response: We have made the requested change

In your History Note, why the references to G.S. 87-43.3 and 87-43.4?

Response: Those references predated the proposed amendment. GS 87-43.3 is referenced as authority for giving examinations in different classifications. The word classifications appeared in the rule prior to your requested elimination of that word. GS 87-43.4 is also referenced as authority for giving a particular classification. If you believe that authority is no longer needed to support the rule, then we can remove it. We have made that change believing that is your view.

In your History Note, line 33, it says “July 1, 201”. Either this is the world’s oldest administrative rule, or there’s a typo. Also, the newest entry—“July 1, 2023”—should come first on that line.

Response: We have corrected the date

In regards to 21 NCAC 18. 0404, we made the requested change to the history note.

Please advise if there remain any issues after these changes.

If we are in agreement, I will forward the attachments to: 'Rules, Oah' <oah.rules@oah.nc.gov>

Thanks for your time and efforts.



Reed N. Fountain
Young Moore and Henderson, P.A.
3101 Glenwood Avenue, Suite 200
Raleigh, NC 27612
(919)782-6860
(919) 782-6753 (fax)
rnf@ymh.com

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1 21 NCAC 18B .0209 is amended as published in 37:16 NCR 1105 with changes as follows:

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21 NCAC 18B .0209 FEES

- (a) ~~The application and examination fee for qualifying examinations~~ The fees for qualifying applicants for examination shall be ~~ninety dollars (\$90.00)~~ one hundred and twenty-five (\$125.00) for all classifications.
- (b) The fee for review of a failed examination is twenty-five dollars (\$25.00). All reviews ~~are~~ shall be supervised by the Board or staff.
- (c) ~~The examination fees for examinations in all classifications~~ The fees for applicants for examination and the fees for examination reviews shall be in the form of cash, check, money order, Visa, or Mastercard made payable to the Board and shall accompany the respective applications when filed with the Board.
- (d) ~~Examination fees~~The fees for applicants for examination received with applications filed for qualifying examinations shall be ~~retained by the Board nonrefundable~~ unless:
 - (1) an application is not filed as prescribed in Rule .0210 of this Section, in which case ~~the examination fee of~~ sixty dollars (\$60.00) ~~of the fees for applicants for examination~~ shall be returned and ~~the~~ application shall be returned; or
 - (2) the applicant does not take the examination during the period for which application was made, files a written request for a refund setting out extenuating circumstance, and the Board finds extenuating circumstances.
- (e) Examination review fees are non-refundable unless the applicant does not take the review, files a written request for a refund, setting out extenuating circumstance, and the Board finds extenuating circumstances.
- (f) Any fee retained by the Board shall not be creditable toward any future examination fee or examination review.
- (g) Extenuating circumstances for the purposes of ~~Paragraphs (d)(2) and (e)~~ Subparagraph (d)(2) and Paragraph (e) of this Rule are the applicant's illness, bodily injury or death, or death of the applicant's spouse, child, parent, or sibling, or a breakdown of the applicant's transportation to the designated site of the examination or examination review.

History Note: Authority G.S. 87-42; ~~87-43.3; 87-43.4~~; 87-44;
Eff. October 1, 1988;
Amended Eff. May 1, 1998; July 1, 1989;
Temporary Amendment Eff. June 30, 2000;
Temporary Amendment Eff. August 31, 2001;
Amended Eff. July 1, 2011; January 1, 2008; December 4, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;
Amended Eff. ~~July 1, 2011; July 1, 2023~~ July 1, 2023; July 1, 2016

1 21 NCAC 18B .0404 is amended as published in 37:16 NCR 1105 with changes as follows:

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3 **21 NCAC 18B .0404 ANNUAL LICENSE FEES**

4 (a) The fee for issuance of license, reissuance of license, or license renewal in the various license classifications shall
5 be as follows:

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LICENSE FEE SCHEDULE

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CLASSIFICATION LICENSE FEE

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Limited ~~\$95.00~~ \$100.00

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Intermediate ~~\$140.00~~ \$150.00

10

Unlimited ~~\$190.00~~ \$200.00

11

SP-SFD ~~\$95.00~~ \$100.00

12

Special Restricted ~~\$95.00~~ \$100.00

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(b) License fees shall be made payable to the Board. Payment shall accompany any license or license renewal
14 application filed with the Board.

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16 *History Note: Authority G.S. 87-42; 87-44;*

17 *Eff. October 1, 1988;*

18 *Amended Eff. May 1, 1998; July 1, 1989;*

19 *Temporary Amendment Eff. June 30, 2000;*

20 *Temporary Amendment Eff. August 31, 2001;*

21 *Amended Eff. July 1, 2015; January 1, 2008; December 4, 2002;*

22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2,*
23 *2016;*

24 *Amended Eff.; ~~July 1, 2020; October 1, 2017; July 1, 2023.~~ July 1, 2023; July 1, 2020; October 1,*
25 *2017*

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Burgos, Alexander N

From: Liebman, Brian R
Sent: Monday, April 24, 2023 11:28 AM
To: Reed Fountain
Cc: Burgos, Alexander N
Subject: Board of Examiners of Electrical Contractors Request for Changes - May 2023 RRC
Attachments: 05.2023 - Electrical Contractors Request for Changes.docx

Good morning,

I'm the attorney who reviewed the Rules submitted by the Board for the May 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, May 18, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules to me via email, no later than 5 p.m. on Monday, May 8, 2023.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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