

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12A .0202

DEADLINE FOR RECEIPT: Thursday, November 10, 2022.

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

In (a)(1) and (3), should S(Marine Construction) be S(Marine and Freshwater Construction)? See (a)(5)(K).

In (a)(2), line 15, I think the reference to "residential building code" should be capitalized, or otherwise formalized to reflect that the Residential Building Code is a separate code.

In (a)(3), line 26, add an Oxford comma after "signage".

In line 28, do you need an Oxford comma after "lighting"? Or is "lighting and marking" a compound?

In (a)(5)(A), p.2, line 11, should "clearing and grubbing, and erosion control activities" be "clearing, grubbing, and erosion control activities"? Or is "clearing and grubbing" a compound?

In (a)(5)(C)(iii), line 23, add a comma after "communication cable".

In (a)(5)(G), p.3, line 11, add an Oxford comma after "lift stations".

In (a)(5)(H), line 17, does the "ancillary" modifier only apply to "curbs and gutters" or to all of the items listed with it? If all, it needs to read "sidewalks, curbs, and gutters that are ancillary".

In (a)(5)(I), lines 24-25, the second sentence needs to be reworded to remove the dependent clause. It's unclear what you're referring to with "ancillary lines and piping." Are these lines and piping that are ancillary to the building? Or lines and piping that are ancillary to the mechanical equipment?

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

Brian Liebman
Commission Counsel

Date submitted to agency: November 4, 2022

1 21 NCAC 12A .0202 is amended as published in 37:04 NCR 329-334 as follows:

2
3 **21 NCAC 12A .0202 CLASSIFICATION**

4 (a) A general contractor shall be certified in one of the following five classifications:

- 5 (1) Building Contractor. This classification covers all building construction and demolition activity
6 including: commercial, industrial, institutional, and all residential building construction. It includes
7 installation of solar panels; parking decks; all site work, grading and paving of parking lots,
8 driveways, sidewalks, and gutters; storm drainage, retaining or screen walls, and hardware and
9 accessory structures; and indoor and outdoor recreational facilities including natural and artificial
10 surface athletic fields, running tracks, bleachers, and seating. It also covers work done under the
11 specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction),
12 S(Marine Construction), S(Masonry Construction), S(Roofing), S(Metal Erection), S(Swimming
13 Pools), and S(Asbestos), and S(Wind Turbine).
- 14 (2) Residential Contractor. This classification covers all construction and demolition activity pertaining
15 to the construction of residential units that are required to conform to the residential building code
16 adopted by the Building Code Council pursuant to G.S. 143-138; all site work, driveways,
17 sidewalks, and water and wastewater systems ancillary to the aforementioned structures and
18 improvements; and the work done as part of such residential units under the specialty classifications
19 of S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), S(Swimming
20 Pools), and S(Asbestos). This classification also covers the installation of solar panels on residential
21 units that are required to conform to the residential building code.
- 22 (3) Highway Contractor. This classification covers all highway construction activity including:
23 demolition, grading, paving of all types, installation of exterior artificial athletic surfaces, relocation
24 of public and private utility lines ancillary to a principal project, bridge construction and repair,
25 culvert construction and repair, parking decks, sidewalks, curbs, gutters and storm drainage. It also
26 includes installation and erection of guard rails, fencing, signage and ancillary highway hardware;
27 covers paving and grading of airport and airfield runways, taxiways, and aprons, including the
28 installation of fencing, signage, runway lighting and marking; and work done under the specialty
29 classifications of S(Boring and Tunneling), S(Concrete Construction), S(Marine Construction),
30 S(Railroad Construction), and H(Grading and Excavating).
- 31 (4) Public Utilities Contractor. This classification includes demolition and operations that are the
32 performance of construction work on water and wastewater systems and on the subclassifications
33 of facilities set forth in G.S. 87-10(b)(3). The Board shall issue a license to a public utilities
34 contractor that is limited to any of the subclassifications set forth in G.S. 87-10(b)(3) for which the
35 contractor qualifies. A public utilities contractor license covers work done under the specialty
36 classifications of S(Boring and Tunneling), PU(Communications), PU(Fuel Distribution),

1 PU(Electrical-Ahead of Point of Delivery), PU(Water Lines and Sewer Lines), PU(Water
2 Purification and Sewage Disposal), and S(Swimming Pools).

3 (5) Specialty Contractor. This classification covers all construction operation and performance of
4 contract work outlined as follows:

5 (A) H(Grading and Excavating). This classification covers the digging, moving, and placing of
6 materials forming the surface of the earth, excluding air and water, in such a manner that
7 the cut, fill, excavation, grade, trench, backfill, or any similar operation may be executed
8 with the use of hand and power tools and machines used for these types of digging, moving,
9 and material placing. It covers work on earthen dams and the use of explosives used in
10 connection with all or any part of the activities described in this Subparagraph. It also
11 includes clearing and grubbing, and erosion control activities.

12 (B) S(Boring and Tunneling). This classification covers the construction of underground or
13 underwater passageways by digging or boring through and under the earth's surface,
14 including the bracing and compacting of such passageways to make them safe for the
15 purpose intended. It includes preparation of the ground surfaces at points of ingress and
16 egress.

17 (C) PU (Communications). This classification covers the demolition and installation of the
18 following:

19 (i) all types of pole lines, and aerial and underground distribution cable for telephone
20 systems;

21 (ii) aerial and underground distribution cable for cable TV and master antenna TV
22 systems capable of transmitting R.F. signals;

23 (iii) underground conduit and communication cable including fiber optic cable; and

24 (iv) microwave systems and towers, including foundations and excavations where
25 required, when the microwave systems are being used for the purpose of
26 transmitting R.F. signals; and installation of PCS or cellular telephone towers and
27 sites.

28 (D) S(Concrete Construction). This classification covers the construction, demolition, and
29 installation of foundations, pre-cast silos, and other concrete tanks or receptacles,
30 prestressed components, and gunite applications, but excludes bridges, streets, sidewalks,
31 curbs, gutters, driveways, parking lots, and highways.

32 (E) PU(Electrical-Ahead of Point of Delivery). This classification covers the construction,
33 installation, alteration, maintenance, or repair of an electrical wiring system, including sub-
34 stations or components thereof, which is or is intended to be owned, operated, and
35 maintained by an electric power supplier, such as a public or private utility, a utility
36 cooperative, or any other properly franchised electric power supplier, for the purpose of

1 furnishing electrical services to one or more customers. This classification includes the
2 construction of solar arrays.

3 (F) PU(Fuel Distribution). This classification covers the construction, installation, alteration,
4 maintenance, or repair of systems for distribution of petroleum fuels, petroleum distillates,
5 natural gas, chemicals, and slurries through pipeline from one station to another. It includes
6 all excavating, trenching, and backfilling in connection therewith. It covers the installation,
7 replacement, and removal of above ground and below ground fuel storage tanks.

8 (G) PU(Water Lines and Sewer Lines). This classification covers demolition and construction
9 work on water and sewer mains, water service lines, and house and building sewer lines,
10 as defined in the North Carolina State Building Code, and covers water storage tanks, lift
11 stations, pumping stations, and appurtenances to water storage tanks, lift stations and
12 pumping stations. It includes pavement patching, backfill, and erosion control as part of
13 construction.

14 (H) PU(Water Purification and Sewage Disposal). This classification covers the demolition and
15 performance of construction work on water and wastewater systems; water and wastewater
16 treatment facilities; and all site work, grading, and paving of parking lots, driveways,
17 sidewalks, and curbs and gutters that are ancillary to such construction of water and
18 wastewater treatment facilities. It covers the work done under the specialty classifications
19 of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Masonry
20 Construction), S(Roofing), and S(Metal Erection) as part of the work on water and
21 wastewater treatment facilities.

22 (I) S(Insulation). This classification covers the installation, alteration, or repair of materials
23 classified as insulating media used for the non-mechanical control of temperatures in the
24 construction of residential and commercial buildings. It does not include the insulation of
25 mechanical equipment, and ancillary lines and piping.

26 (J) S(Interior Construction). This classification covers the installation and demolition of
27 acoustical ceiling systems and panels, load bearing and non-load bearing partitions, lathing
28 and plastering, flooring and finishing, interior recreational surfaces, window and door
29 installation, and installation of fixtures, cabinets, and millwork. It includes the removal of
30 asbestos and replacement with non-toxic substances.

31 (K) S(Marine and Freshwater Construction). This classification covers all marine and
32 freshwater demolition and construction and repair activities and all types of marine and
33 freshwater construction and demolition in deep-water installations and in harbors, inlets,
34 sounds, bays, channels, canals, rivers, lakes, ponds, or any navigable waterway; it covers
35 dredging, construction, and installation of pilings, piers, decks, slips, docks, and bulkheads.
36 It does not include other structures that may be constructed on docks, slips, and piers.

- 1 (L) S(Masonry Construction). This classification covers the demolition and installation, with
2 or without the use of mortar or adhesives, of the following:
- 3 (i) brick, concrete block, gypsum partition tile, pumice block, or other lightweight
4 and facsimile units and products common to the masonry industry;
 - 5 (ii) installation of fire clay products and refractory construction; and
 - 6 (iii) installation of rough cut and dressed stone, marble panels and slate units, and
7 installation of structural glazed tile or block, glass brick or block, and solar screen
8 tile or block.
- 9 (M) S(Railroad Construction). This classification covers the demolition, building, construction,
10 and repair of railroad lines including:
- 11 (i) the clearing and filling of rights-of-way;
 - 12 (ii) shaping, compacting, setting, and stabilizing of road beds;
 - 13 (iii) setting ties, tie plates, rails, rail connectors, frogs, switch plates, switches, signal
14 markers, retaining walls, dikes, fences, and gates; and
 - 15 (iv) construction and repair of tool sheds and platforms.
- 16 (N) S(Roofing). This classification covers the installation, demolition, and repair of roofs and
17 decks on residential, commercial, industrial, and institutional structures requiring materials
18 that form a water-tight and weather-resistant surface. The term "materials" for purposes of
19 this Subparagraph includes cedar, cement, asbestos, clay tile and composition shingles, all
20 types of metal coverings, wood shakes, single ply and built-up roofing, protective and
21 reflective roof and deck coatings, sheet metal valleys, flashings, gravel stops, gutters and
22 downspouts, and bituminous waterproofing.
- 23 (O) S(Metal Erection). This classification covers:
- 24 (i) the field fabrication, demolition, erection, repair, and alteration of architectural
25 and structural shapes, plates, tubing, pipe and bars, not limited to steel or
26 aluminum, that are or may be used as structural members for buildings,
27 equipment, and structure; and
 - 28 (ii) the layout, assembly and erection by welding, bolting, riveting, or fastening in any
29 manner metal products as curtain walls, tanks of all types, hoppers, structural
30 members for buildings, towers, stairs, conveyor frames, cranes and crane
31 runways, canopies, carports, guard rails, signs, steel scaffolding as a permanent
32 structure, rigging, flagpoles, fences, steel and aluminum siding, bleachers, fire
33 escapes, and seating for stadiums, arenas, and auditoriums.
- 34 (P) S(Swimming Pools). This classification covers the construction, demolition, service, and
35 repair of all swimming pools. It includes:
- 36 (i) excavation and grading;

1 (ii) construction of concrete, gunite, fiberglass, metal-walled with liner, steel-walled
2 with liner, and plastic-type pools, pool decks, and walkways, and tiling and
3 coping; and

4 (iii) installation of all equipment including pumps, filters, and chemical feeders. It
5 does not include direct connections to a sanitary sewer system or to portable water
6 lines, nor the grounding and bonding of any metal surfaces or the making of any
7 electrical connections.

8 (Q) S(Asbestos). This classification covers renovation or demolition activities involving the
9 repair, maintenance, removal, isolation, encapsulation, or enclosure of Regulated Asbestos
10 Containing Materials (RACM) for any commercial, industrial, or institutional building,
11 whether public or private. It also covers all types of residential building construction
12 involving RACM during renovation or demolition activities. This specialty is required only
13 when the cost of asbestos activities as described herein are equal to or exceed thirty
14 thousand dollars (\$30,000).

15 (R) S(Wind Turbine). This classification covers the construction, demolition, installation, and
16 repair of wind turbines, wind generators, and wind power units. It includes assembly of
17 blades, generator, turbine structures, and towers. It also includes ancillary foundation work,
18 field fabrication of metal equipment, and structural support components.

19 (b) An applicant may be licensed in more than one classification of general contracting provided the applicant meets
20 the qualifications for the classifications, which includes passing the examinations for the classification requested by
21 the applicant. The license granted to an applicant who meets the qualifications for all of the classifications set forth in
22 the rules of this Section shall be designated "unclassified."

23
24 *History Note: Authority G.S. 87-1; 87-4; 87-10;*
25 *Eff. February 1, 1976;*
26 *Readopted Eff. September 26, 1977;*
27 *Amended Eff. June 1, 1994; June 1, 1992; May 1, 1989; January 1, 1983;*
28 *Temporary Amendment Eff. February 18, 1997;*
29 *Amended Eff. April 1, 2014; June 1, 2011; September 1, 2009; April 1, 2004; April 1, 2003; August*
30 *1, 2002; April 1, 2001; August 1, 2000; August 1, 1998;*
31 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
32 *2016;*
33 *Amended Eff. September 1, 2019; April 1, 2018;*
34 *Recodified from 21 NCAC 12 .0202 Eff. January 2, 2020;*
35 *Amended Eff. January 1, 2023; January 1, 2022.*
36

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12A .0303

DEADLINE FOR RECEIPT: Thursday, November 10, 2022.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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

Throughout, please remove all references which use "(s)". It's fine to just use the plural.

In (a)(5), (7), and (8), what does "information" from the applicant require? What specifically are you asking for?

In your History Note, please add G.S. 87-4 for rulemaking authority.

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

Brian Liebman
Commission Counsel

Date submitted to agency: November 4, 2022

1 21 NCAC 12A .0303 is amended as published in 37:04 NCR 329-334 as follows:

2
3 **21 NCAC 12A .0303 APPLICATION FOR LICENSURE**

4 (a) General. Applications for licensure shall contain the following:

- 5 (1) the Social Security Number of examinee(s) and qualifier(s) and tax identification numbers for
6 corporate applicants;
- 7 (2) the applicant's contact information;
- 8 (3) the name of business under which the licensee will be operating, if any;
- 9 (4) requested designation of license limitation and classifications;
- 10 (5) information about all crimes of which the applicant has been convicted;
- 11 (6) certified copies of court records reflecting information regarding all crimes of which the applicant
12 and qualifier(s) have been convicted;
- 13 (7) information indicating whether the applicant or qualifier(s) has any disciplinary history with the
14 Board or any other occupational licensing, registration, or certification agency;
- 15 (8) information establishing financial responsibility as required by G.S. 87-10(a) and Rule .0204 of this
16 Subchapter;
- 17 (9) letters of reference as prescribed in Rule .0308 of this Subchapter; and
- 18 (10) the application fee as set forth in Rule .0304 of this Subchapter.

19 (b) Criminal Background Check. In addition to the requirements set forth above, all new applicants shall consent to
20 criminal background checks to be performed by a third-party vendor identified by the Board. The cost of the
21 background check shall be paid directly to the vendor. The qualifiers of all new applicants shall submit to the
22 background check. ~~For the purposes of the criminal background check,~~ Additionally, the following individuals shall
23 submit to the background check, based upon the entity or person applying for the license:

- 24 (1) Sole proprietor license: The sole proprietor;
- 25 (2) Corporation: The president;
- 26 (3) Limited liability company: All managers and members;
- 27 (4) Partnerships (including limited liability partnerships): All partners.

28 (c) Reciprocity. Applicants based on reciprocity shall submit with the application form a copy of the applicant's
29 license in the other state, certified by the other state licensing board as being a copy of a valid license. Applicants shall
30 have taken and passed the exam offered in the state from which they are seeking reciprocity, or an examination offered
31 by the National Association of State Contractors Licensing Agencies (NASCLA). Applicants shall also be required to
32 take and pass the Board's North Carolina law, rule, and building code examination prior to licensure.

33
34 *History Note: Authority G.S. 87-1; 87-10;*
35 *Eff. February 1, 1976;*
36 *Readopted Eff. September 26, 1977;*
37 *Amended Eff. May 1, 1989;*

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
2 *2016;*
3 *Amended Eff. September 1, 2019; April 1, 2018;*
4 *Recodified from 21 NCAC 12 .0303 Eff. January 2, 2020;*
5 *Amended Eff. January 1, 2023; March 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Licensing Board for General Contractors

RULE CITATION: 21 NCAC 12B .0201

DEADLINE FOR RECEIPT: Thursday, November 10, 2022.

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

In (a) and (d), what "name" are you referring to? The provider's legal name, assumed business name, etc.?

In (b), line 10, please change "must" to "shall."

In (b), line 10, I think there's a number disagreement between "providers of all courses" and "to conduct such course" and so on. Please correct.

Also in (b), line 10, please consider eliminating "such" as it is imprecise.

In (c), line 14, replace "make application on" with "apply using".

In (c), line 14, are the contents of the form entirely described in this Rule, another rule, or a statute?

In (c)(4), line 19, please eliminate all "(s)"s, and just use the plural.

In your History Note, please remove the "(c)" from the citation, as it appears to me you're also relying upon 87-10.2(k).

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

Brian Liebman
Commission Counsel
Date submitted to agency: November 4, 2022

1 21 NCAC 12B .0201 is amended as published in 37:04 NCR 329-334 as follows:

2
3 **SECTION .0200 – PROVIDERS**
4

5 **21 NCAC 12B .0201 APPLICATION FOR INITIAL APPROVAL OF CONTINUING EDUCATION**
6 **PROVIDER**

7 (a) Only continuing education providers approved by the Board shall be eligible to offer continuing education courses.
8 If a third party advertises or hosts an approved course, all materials advertising the course shall include the approved
9 provider's name.

10 (b) Prospective providers of all courses must obtain written approval from the Board to conduct such course prior to
11 conducting the course and prior to advertising or otherwise representing that the course is or may be approved for
12 general contractor continuing education credit in North Carolina. No retroactive approval to conduct a continuing
13 education course will be granted.

14 (c) Any entity seeking initial approval to be a continuing education provider shall make application on a form available
15 on the Board's website that requires the applicant to set forth:

- 16 (1) the legal name of applicant and any assumed business name;
- 17 (2) the applicant's mailing address, telephone number, and email address;
- 18 (3) the SOS ID number issued by the NC Secretary of State, if applicable;
- 19 (4) the legal name(s) of the provider's owner(s), member(s), manager(s), or partner(s);
- 20 (5) the name of a continuing education coordinator who shall serve as the contact person for the
21 provider; and
- 22 (6) the signature of the applicant or its legal designee.

23 (d) The name of any course provider shall not be identical or similar so as to cause confusion to the name of any other
24 approved continuing education course provider.

25 (e) Continuing education providers shall notify the Board in writing within 10 days of any change in business name,
26 ownership interest, continuing education coordinator, address, business telephone number, or email address.

27
28 *History Note: Authority G.S. 87-10.2(c);*
29 *Temporary Adoption Eff. January 2, 2020;*
30 *Eff. September 1, ~~2020~~ 2020;*
31 *Amended Eff. January 1, 2023.*