

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

AGENCY: Licensing Board of General Contractors

RULE CITATION: 21 NCAC 12A .0202

DEADLINE FOR RECEIPT:

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:

Page 4, Line 22: "Bituminous" appears to be an adjective without a noun.

Page 4, Line 23: Is "roofing system" defined anywhere?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: October 26, 2023

1 21 NCAC 12A .0202 is amended as published in 38:04 NCR 213-217 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 and Freshwater Construction), S(Masonry Construction), S(Roofing), S(Metal Erection),
13 S(Swimming 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 and Freshwater
30 Construction), 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, curbs, and gutters that are ancillary to such construction of water and wastewater
18 treatment facilities. It covers the work done under the specialty classifications of
19 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 lines and piping that are ancillary to the building.

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~~including torch down roof systems. Any
23 insulation material installed as a component of a roofing system shall be included as work
24 covered under this classification.
- 25 (O) S(Metal Erection). This classification covers:
- 26 (i) the field fabrication, demolition, erection, repair, and alteration of architectural
27 and structural shapes, plates, tubing, pipe and bars, not limited to steel or
28 aluminum, that are or may be used as structural members for buildings,
29 equipment, and structure; and
 - 30 (ii) the layout, assembly and erection by welding, bolting, riveting, or fastening in any
31 manner metal products as curtain walls, tanks of all types, hoppers, structural
32 members for buildings, towers, stairs, conveyor frames, cranes and crane
33 runways, canopies, carports, guard rails, signs, steel scaffolding as a permanent
34 structure, rigging, flagpoles, fences, steel and aluminum siding, bleachers, fire
35 escapes, and seating for stadiums, arenas, and auditoriums.
- 36 (P) S(Swimming Pools). This classification covers the construction, demolition, service, and
37 repair of all swimming pools. It includes:

- (i) excavation and grading;
- (ii) construction of concrete, gunite, fiberglass, metal-walled with liner, steel-walled with liner, and plastic-type pools, pool decks, and walkways, and tiling and coping; and
- (iii) installation of all equipment including pumps, filters, and chemical feeders. It does not include direct connections to a sanitary sewer system or to portable water lines, nor the grounding and bonding of any metal surfaces or the making of any electrical connections.

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

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

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

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

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

AGENCY: Licensing Board of General Contractors

RULE CITATION: 21 NCAC 12A .0308

DEADLINE FOR RECEIPT:

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:

Lines 4-5: "as to the character reference's"? I would not say that is objectionable, but it is messy and could be improved.

Lines 4-5: Consider, if it meets the Board's intentions, "Each applicant shall submit to the Board three written evaluations from character references which attest [or state] the reference's knowledge of and experience with the applicant."

Lines 5-6: Aren't all applicants "legal entities"?

Lines 5-6: Are these references in addition to references for the business applicant or in lieu of?

Lines 5-6: Consider, if it meets the Board's intentions, "If the applicant is a firm, business, partnership, or corporation, references shall be provided for the qualifier, as defined in G.S. 87-10(b), and each signatory of the application."

Lines 6-7: Are the references required for the owner of the sole proprietorship or the business?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: October 26, 2023

1 21 NCAC 12A .0308 is amended as published in 38:04 NCR 213-217 as follows:

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3 **21 NCAC 12A .0308 CHARACTER REFERENCES**

4 (a) Each applicant shall submit to the Board three written evaluations of the applicant as to the character reference's
5 knowledge of and experience with the applicant. If the applicant is a legal entity, character references shall be
6 submitted for all individuals who sign the application on behalf of the applicant- including the qualifier If the applicant
7 is a sole proprietorship, character references shall be for the applicant itself.

8 (b) All character references shall include:

9 (1) name of the person submitting the reference;

10 (2) mailing address, phone number, and email address of the person submitting the reference;

11 (3) date of the reference; and

12 (4) information regarding the reference's knowledge of and experience with the applicant or person
13 about whom the reference is being provided.

14 (c) Character references shall be completed and dated no more than 12 months prior to the date the reference is
15 submitted to the Board.

16

17 *History Note: Authority G.S. 87-1; 87-10;*

18 *Eff. February 1, 1976;*

19 *Readopted Eff. September 26, 1977;*

20 *Amended Eff. May 1, 1989;*

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

23 *Amended Eff. September 1, 2019;*

24 *Recodified from 21 NCAC 12 .0308 Eff. January 2, ~~2020~~2020;*

25 *Amended Eff. December 1, 2023.*

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

AGENCY: Licensing Board of General Contractors

RULE CITATION: 21 NCAC 12A .0828

DEADLINE FOR RECEIPT:

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

Lines 4: "Party" to what? Consider: "Any party to a hearing granted pursuant to 21 NCAC 12A .0819 may be..."

Line 5: Is there a particular manner in which the hearing shall be recorded?

Line 7-9: Does the Board have discretion in granting the request? Can the Board compel someone to appear by video if they want to appear in person?

Line 8: "Electronically"? Is there any other kind of video conference?

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

William W. Peaslee
Commission Counsel

Date submitted to agency: October 26, 2023

1 21 NCAC 12A .0828 is amended as published in 38:04 NCR 213-217 as follows:

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3 **21 NCAC 12A .0828 WITNESSES**

4 Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the
5 hearing shall be under oath or affirmation and shall be recorded. At the request of a party or upon the Board's own
6 motion, the presiding officer may exclude witnesses from the hearing room so that they cannot hear the testimony of
7 other witnesses. At the request of a party, witness, or the Board, a witness may appear by videoconference,
8 electronically via live face-to-face video. Requests to appear by videoconference are to be directed to the Board or
9 the Board's attorney not less than two business days prior to the date of the hearing.

10

11 *History Note: Authority G.S. 87-11(b); 150B-38; 150B-40;*

12 *Eff. September 1, 1988;*

13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
14 *2016;*

15 *Recodified from 21 NCAC 12 .0828 Eff. January 2, ~~2020~~2020;*

16 *Amended Eff. December 1, 2023.*

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