



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Licensing Board for General Contractors

2. Rule citation & name: 21 NCAC 12A .0202

3. Action: ☐ Adoption ☒ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: September 10, 2025
- b. Proposed Temporary Rule published on the OAH website: September 11, 2025
- c. Public Hearing date: September 25, 2025
- d. Comment Period: September 15, 2025 – October 24, 2025
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): September 11, 2025
- f. Adoption by agency on: November 5, 2025
- g. Proposed effective date of temporary rule if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☒ 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: Due to the unforeseeable and devastating impact of Hurricane Helene in Western North Carolian, many private bridges were destroyed, thus preventing North Carolina citizens from returning to their homes. Because of the topography of the Western North Carolina foothills and mountains, bridges are often required in order to ingress/egress to/from residential property. Currently, only licensed general contractors with a “highway” classification are permitted to construct these bridges as this is the only classification that includes bridge construction. There are only 1,640 licensed general contractors who hold a highway classification versus 8,356 licensed general contractors who hold an unlimited building classification. Expanding the pool of general contractors who can repair and reconstruct these residential, non-publicly maintained bridges to include unlimited building general contractors will help the citizens in Western North Carolina return to their homes more quickly and safely and balance the need to protect the public by allowing only the most qualified general contractors to construct these bridges.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

Hurricane Helene caused unprecedented destruction in western North Carolina. One significant component of the recovery effort has been the repair and reconstruction of private roads and bridges (i.e., roads and bridges that are not owned and managed by the State). The damage to these private roads and bridges has hampered western North Carolinians' ability to access their homes and rendered more than 700 households unreachable by emergency services.

As the law currently stands, only licensed general contractors with a "highway" classification are clearly authorized to construct private roads and bridges. For that reason, the North Carolina Department of Public Safety, Division of Emergency Management (NCEM) has extended procurement opportunities involving private roads and bridges only to licensed general contractors with that classification. Perhaps because of this restriction, the responses to the advertisements thus far have been less robust than NCEM had hoped despite multiple procurement opportunities over the past several months.

NCEM has received feedback that indicates that it could significantly expand the pool of eligible contractors who might bid on procurement opportunities by allowing licensed general contractors with a "building contractor" classification to build private roads and bridges, so long as the projects are not complex (as determined by NCEM Engineers). While there are 8,356 licensed general contractors in the state who hold an unlimited building classification, there are only 1,640 licensed general contractors who hold a highway classification. Far fewer are active in western North Carolina, and extensive repair and rebuilding efforts in the region have placed great strain on the pool of existing contractors.

NCEM is eager to issue additional procurement opportunities to generate additional bids, and it is concerned that adherence to the standard notice and hearing requirements would unduly prolong the procurement process and delay further the agency's ability to assist in disaster recovery by tapping into this broader pool of licensed general contractors. Every additional day of delay is another day that western North Carolinians may not be able to reliably access their homes and/or emergency services. Though NCEM also intends to pursue a permanent rule, it firmly believes that a temporary rule is necessary to allow residents of western North Carolina to safely return to their homes as soon as possible.

8. 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

9. Rule-making Coordinator: Anna Baird Choi

Phone: (919) 571-4183 x210

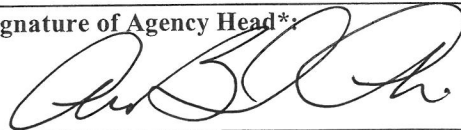
E-Mail: anna.choi@nclbgc.org

Agency contact, if any:

Phone:

E-Mail:

10. 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:

Title:

E-Mail:

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

21 NCAC 12A .0202 is proposed for amendment under temporary procedures as follows:

21 NCAC 12A .0202 CLASSIFICATION

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

- (1) Building Contractor. This classification covers all building construction and demolition activity including: commercial, industrial, institutional, and all residential building construction. It includes installation of solar panels; parking decks; all site work, grading and paving of parking lots, driveways, sidewalks, and gutters; storm drainage, retaining or screen walls, and hardware and accessory structures; and indoor and outdoor recreational facilities including natural and artificial surface athletic fields, running tracks, bleachers, and seating. It also covers work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Marine and Freshwater Construction), S(Masonry Construction), S(Roofing), S(Metal Erection), S(Swimming Pools), S(Asbestos), S(Wind Turbine), and S(Sign/Billboard).

a. For the purposes of providing disaster relief assistance pursuant to a declaration of a state of an emergency, if a contractor who holds this classification with an unlimited limitation as defined in N.C. Gen. Stat. §87-10(a1) and has been pre-qualified by the North Carolina Department of Public Safety, Emergency Management Division, this classification also includes construction of non-publicly maintained bridges.

b. For the purposes of this rule, a “declaration of a state of an emergency” shall be defined as in chapter 166A, Article 1A, Part 4 of the N.C. General Statutes.

c. For the purposes of this rule, a “non-publicly maintained bridge” shall be defined as a bridge that is not maintained by the State, Federal government, municipality, or county.

- (2) Residential Contractor. This classification covers all construction and demolition activity pertaining to the construction of residential units that are required to conform to the Residential Building Code adopted by the Building Code Council pursuant to G.S. 143-138; all site work, driveways, sidewalks, and water and wastewater systems ancillary to the aforementioned structures and improvements; and the work done as part of such residential units under the specialty classifications of S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), S(Swimming Pools), and S(Asbestos). This classification also covers the installation of solar panels on residential units that are required to conform to the residential building code.

- (3) Highway Contractor. This classification covers all highway construction activity including: demolition, grading, paving of all types, installation of exterior artificial athletic surfaces, relocation of public and private utility lines ancillary to a principal project, bridge construction and repair, culvert construction and repair, parking decks, sidewalks, curbs, gutters and storm drainage. It also includes installation and erection of guard rails, fencing, signage, and ancillary highway hardware; covers paving and grading of airport and airfield runways, taxiways, and aprons, including the installation of fencing, signage, runway lighting and marking; and work done under the specialty

1 classifications of S(Boring and Tunneling), S(Concrete Construction), S(Marine and Freshwater
2 Construction), S(Railroad Construction), H(Grading and Excavating), S(Metal Erection), and
3 S(Sign/Billboard).

4 (4) Public Utilities Contractor. This classification includes demolition and operations that are the
5 performance of construction work on water and wastewater systems and on the subclassifications
6 of facilities set forth in G.S. 87-10(b)(3). The Board shall issue a license to a public utilities
7 contractor that is limited to any of the subclassifications set forth in G.S. 87-10(b)(3) for which the
8 contractor qualifies. A public utilities contractor license covers work done under the specialty
9 classifications of S(Boring and Tunneling), PU(Communications), PU(Fuel Distribution),
10 PU(Electrical-Ahead of Point of Delivery), PU(Water Lines and Sewer Lines), PU(Water
11 Purification and Sewage Disposal), and S(Swimming Pools).

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

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

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

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

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

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

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

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

- (D) S(Concrete Construction). This classification covers the construction, demolition, and installation of foundations, pre-cast silos, and other concrete tanks or receptacles, prestressed components, and gunite applications, but excludes bridges, streets, sidewalks, curbs, gutters, driveways, parking lots, and highways.
- (E) PU(Electrical-Ahead of Point of Delivery). This classification covers the construction, installation, alteration, maintenance, or repair of an electrical wiring system, including substations or components thereof, which is or is intended to be owned, operated, and maintained by an electric power supplier, such as a public or private utility, a utility cooperative, or any other properly franchised electric power supplier, for the purpose of furnishing electrical services to one or more customers. This classification includes the construction of solar arrays.
- (F) PU(Fuel Distribution). This classification covers the construction, installation, alteration, maintenance, or repair of systems for distribution of petroleum fuels, petroleum distillates, natural gas, chemicals, and slurries through pipeline from one station to another. It includes all excavating, trenching, and backfilling in connection therewith. It covers the installation, replacement, and removal of above ground and below ground fuel storage tanks.
- (G) PU(Water Lines and Sewer Lines). This classification covers demolition and construction work on water and sewer mains, water service lines, and house and building sewer lines, as defined in the North Carolina State Building Code, and covers water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations, and pumping stations. It includes pavement patching, backfill, and erosion control as part of construction.
- (H) PU(Water Purification and Sewage Disposal). This classification covers the demolition and performance of construction work on water and wastewater systems; water and wastewater treatment facilities; and all site work, grading, and paving of parking lots, driveways, sidewalks, curbs, and gutters that are ancillary to such construction of water and wastewater treatment facilities. It covers the work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), and S(Metal Erection) as part of the work on water and wastewater treatment facilities.
- (I) S(Insulation). This classification covers the installation, alteration, or repair of materials classified as insulating media used for the non-mechanical control of temperatures in the construction of residential and commercial buildings. It does not include the insulation of mechanical equipment, and lines and piping that are ancillary to the building.
- (J) S(Interior Construction). This classification covers the installation and demolition of acoustical ceiling systems and panels, load bearing and non-load bearing partitions, lathing and plastering, flooring and finishing, interior recreational surfaces, window and door

1 installation, and installation of fixtures, cabinets, and millwork. It includes the removal of
2 asbestos and replacement with non-toxic substances.

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

9 (L) S(Masonry Construction). This classification covers the demolition and installation, with
10 or without the use of mortar or adhesives, of the following:

- 11 (i) brick, concrete block, gypsum partition tile, pumice block, or other lightweight
12 and facsimile units and products common to the masonry industry;
13 (ii) installation of fire clay products and refractory construction; and
14 (iii) installation of rough cut and dressed stone, marble panels and slate units, and
15 installation of structural glazed tile or block, glass brick or block, and solar screen
16 tile or block.

17 (M) S(Railroad Construction). This classification covers the demolition, building, construction,
18 and repair of railroad lines including:

- 19 (i) the clearing and filling of rights-of-way;
20 (ii) shaping, compacting, setting, and stabilizing of road beds;
21 (iii) setting ties, tie plates, rails, rail connectors, frogs, switch plates, switches, signal
22 markers, retaining walls, dikes, fences, and gates; and
23 (iv) construction and repair of tool sheds and platforms.

24 (N) S(Roofing). This classification covers the installation, demolition, and repair of roofs and
25 decks on residential, commercial, industrial, and institutional structures requiring materials
26 that form a water-tight and weather-resistant surface. The term "materials" for purposes of
27 this Subparagraph includes cedar, cement, asbestos, clay tile and composition shingles, all
28 types of metal coverings, wood shakes, single ply and built-up roofing, protective and
29 reflective roof and deck coatings, sheet metal valleys, flashings, gravel stops, gutters and
30 downspouts, and bituminous waterproofing, including torch down roof systems. Any
31 insulation material installed as a component of a torch down roofing system shall be
32 included as work covered under this classification.

33 (O) S(Metal Erection). This classification covers:

- 34 (i) the field fabrication, demolition, erection, repair, and alteration of architectural
35 and structural shapes, plates, tubing, pipe and bars, not limited to steel or
36 aluminum, that are or may be used as structural members for buildings,
37 equipment, and structure; and

(ii) the layout, assembly and erection by welding, bolting, riveting, or fastening in any manner metal products as curtain walls, tanks of all types, hoppers, structural members for buildings, towers, stairs, conveyor frames, cranes and crane runways, canopies, carports, guard rails, signs, steel scaffolding as a permanent structure, rigging, flagpoles, fences, steel and aluminum siding, bleachers, fire escapes, and seating for stadiums, arenas, and auditoriums.

(P) S(Swimming Pools). This classification covers the construction, demolition, service, and 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 forty thousand dollars (\$40,000).

(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.

(S) S(Sign/Billboard). This classification covers the construction, renovation, installation, repair, erection, or demolition of any structural signs or billboards, as used in G.S. 136-128(3) that are permanently annexed to real property and as defined in Article 11 of Chapter 136 of the N.C. General Statutes.

(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;

1 *Eff. February 1, 1976;*
2 *Readopted Eff. September 26, 1977;*
3 *Amended Eff. June 1, 1994; June 1, 1992; May 1, 1989; January 1, 1983;*
4 *Temporary Amendment Eff. February 18, 1997;*
5 *Amended Eff. April 1, 2014; June 1, 2011; September 1, 2009; April 1, 2004; April 1, 2003; August*
6 *1, 2002; April 1, 2001; August 1, 2000; August 1, 1998;*
7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
8 *2016;*
9 *Amended Eff. September 1, 2019; April 1, 2018;*
10 *Recodified from 21 NCAC 12 .0202 Eff. January 2, 2020;*
11 *Temporary Amendment Eff. _____, 2025; September 1, 2025; December 1, 2023; January*
12 *1, 2023; January 1, 2022.*
13
14
15