

## Burgos, Alexander N

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**Subject:** FW: [External] Landscape Contractors Request for Changes

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**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Sent:** Monday, March 6, 2023 11:07 AM  
**To:** Anna Baird Choi <achoi@hedrickgardner.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] Landscape Contractors Request for Changes

Anna,

That sounds good. Thanks for making the changes.

Brian

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

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**From:** Anna Baird Choi <[achoi@hedrickgardner.com](mailto:achoi@hedrickgardner.com)>  
**Sent:** Monday, March 6, 2023 10:51 AM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: [External] Landscape Contractors Request for Changes

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Brian,

Thanks. I was out on Friday but we've made these edits, I'm running them by the Board and I anticipate they will be filed before COB today.

As for the reference to "Green Industry," we plan to leave it in but I will let the Board know that we need to amend .0405. I agree with you; I don't see any basis on which the Codifier could make this revision.

Anna

**Anna Baird Choi** | Partner  
Hedrick Gardner Kincheloe & Garofalo LLP.  
4131 Parklake Ave., Suite 300 | Raleigh, NC 27612  
Phone: 919-341-2658 | Fax: 919-832-9425  
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HEDRICK GARDNER  
KINCHELOE GAROFALO

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## Burgos, Alexander N

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**Subject:** FW: [External] Landscape Contractors Request for Changes

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**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Sent:** Friday, March 3, 2023 3:22 PM  
**To:** Anna Baird Choi <achoi@hedrickgardner.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] Landscape Contractors Request for Changes

Hey Anna,

See below, with my comments in bold. I think if you make these changes, you'll be good.

*In (a), line 6, please use the active tense, and specify who is providing information to the Board. We will revise to read “If the information provided by the licensee or continuing education provider to the Board as required . . .”*

***I think this would work, but please note line 7 where you say “the Board may request additional information from a licensee.” This is why I asked – wasn’t sure if you were requesting info from the licensee or from someone else in addition. Make sure you make changes to both places.***

*In (b)(1)(A)-(D), I don’t understand the groupings here. What function are they serving, particularly in the absence of the now deleted paragraph (c)? The Board was going to roll out the grouped requirements on August 1, 2022 (see the current (c) that the Board is deleting) but decided that the regulated public needed more time to understand the requirements. Thus, the Board is deleting the implementation but leaving the groupings to inform the regulated public.*

**OK.**

*In the table under (c), I’m not sure I understand the entries for “Green Industry Board Member Service” and “NC Landscape Contractors Licensing Board Service”. If I understand the function of the table correctly, it appears you’re saying 5 hours of service equals 1 hour of CEU credit. If so, I don’t understand the reference to “maximum” and “3 technical and 2 business”. Agreed – this is confusing. The right side of the table for each of these should be simply “1 hour” and the text currently in the boxes should be a ?new paragraph? beneath the table that reads as follows:*

*Green Industry Board members and NC Landscape Contractors Licensing Board members may earn no more than five hours per CE year (3 technical credits and 2 business credits).*

***Sounds good to me. I don’t think you need a new lettered paragraph, but just add a line of text under the table, so it is all part of (c).***

*The other interpretation I came up with is that 5 hours of service on each kind of board satisfies the 3 technical and 2 business hour requirement from (a), but that doesn’t comport with the rest of the table.*

*Also, with respect to the table under (c), what is a “Green Industry”? Is this defined elsewhere? I see it in R. 0405, but it’s limited to “this Rule”. It is defined the same as in rule .0405. Rule .0405 should read in this “subchapter” instead of “rule.” I presume we need to file a notice of text to amend rule .0405?*

*Yes. The only way you could fix it without going through rulemaking would be via 150B-21.5(a), and I don't think changing "rule" to "subchapter" fits with any of the amendments allowed there. You should probably run it past the Codifier to be sure.*

Thanks, and have a great weekend.  
Brian

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**From:** Anna Baird Choi <[achoi@hedrickgardner.com](mailto:achoi@hedrickgardner.com)>  
**Sent:** Monday, February 27, 2023 2:37 PM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Subject:** [External] Landscape Contractors Request for Changes

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Brian,  
Good afternoon. Please see the attached and my comments in red. Let me know if these edits/this information will address your questions.

Thanks,  
Anna

**Anna Baird Choi** | Partner  
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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Landscape Contractors' Licensing Board

RULE CITATION: 21 NCAC 28B .0402

**DEADLINE FOR RECEIPT: Friday, March 10, 2023.**

***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), line 6, please use the active tense, and specify who is providing information to the Board. We will revise to read "If the information provided by the licensee or continuing education provider to the Board as required . . . "*

*In (b)(1)(A)-(D), I don't understand the groupings here. What function are they serving, particularly in the absence of the now deleted paragraph (c)? The Board was going to roll out the grouped requirements on August 1, 2022 (see the current (c) that the Board is deleting) but decided that the regulated public needed more time to understand the requirements. Thus, the Board is deleting the implementation but leaving the groupings to inform the regulated public.*

*In the table under (c), I'm not sure I understand the entries for "Green Industry Board Member Service" and "NC Landscape Contractors Licensing Board Service". If I understand the function of the table correctly, it appears you're saying 5 hours of service equals 1 hour of CEU credit. If so, I don't understand the reference to "maximum" and "3 technical and 2 business". Agreed – this is confusing. The right side of the table for each of these should be simply "1 hour" and the text currently in the boxes should be a ?new paragraph? beneath the table that reads as follows:  
*Green Industry Board members and NC Landscape Contractors Licensing Board members may earn no more than five hours per CE year (3 technical credits and 2 business credits).**

*The other interpretation I came up with is that 5 hours of service on each kind of board satisfies the 3 technical and 2 business hour requirement from (a), but that doesn't comport with the rest of the table.*

*Also, with respect to the table under (c), what is a "Green Industry"? Is this defined elsewhere? I see it in R. 0405, but it's limited to "this Rule". It is defined the same as in rule .0405. Rule .0405 should read in this "subchapter" instead of "rule." I presume we need to file a notice of text to amend rule .0405?*

Brian Liebman  
Commission Counsel  
Date submitted to agency: February 24, 2023

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: February 24, 2023

## Burgos, Alexander N

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**Subject:** FW: Landscape Contractors' Licensing Board - March 2023 RRC Request for Changes  
**Attachments:** 2023.03 - Landscape Contractors Request for Changes.docx

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**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Sent:** Monday, February 27, 2023 9:23 AM  
**To:** nclclb@nclclb.com  
**Cc:** Anna Baird Choi <achoi@hedrickgardner.com>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: Landscape Contractors' Licensing Board - March 2023 RRC Request for Changes

Good morning,

It's come to my attention that I put the wrong citation in the request for changes document I sent out on Friday. Attached, please find a new document with the citation corrected, and no other changes made.

Sorry for any confusion!

Brian

Brian Liebman  
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(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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**From:** Liebman, Brian R  
**Sent:** Friday, February 24, 2023 3:05 PM  
**To:** [nclclb@nclclb.com](mailto:nclclb@nclclb.com)  
**Cc:** Anna Baird Choi <[achoi@hedrickgardner.com](mailto:achoi@hedrickgardner.com)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** Landscape Contractors' Licensing Board - March 2023 RRC Request for Changes

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Board for the March 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, March 16, 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 and forms to me via email, no later than 5 p.m. on Friday, March 10, 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  
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