

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

AGENCY: The State Board of Examiners of Electrical Contractors

RULE CITATION: 21 NCAC 18B .0306

DEADLINE FOR RECEIPT: November 7, 2025

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:

Rule Submission Form (Form 0400): The form you used is outdated (from 03/2019). Please use the updated version of the form, which can be found on OAH's website at <https://www.oah.nc.gov/rules-division/information-rulemaking-coordinators>. The version that you used does not contain certain APA attestations, which are necessary for our review.

*Notice of Hearing: It appears that the Board's Notice of Hearing (scheduled for October 2, 2025) was published in the June 16, 2025, version of the Register. Please note that per the statutory requirements, the hearing must take place at least 15 days after the date of notice publication **but not later than 60 days after** the date of notice publication (see G.S. 150B-21.2(e)). Could you please confirm that these dates are accurate?*

Introductory Statement: The period following "18B" should be moved directly in front of "0306". Also, the citation to the NCR is incorrect. Please follow the examples posted on OAH's website, such as <https://www.oah.nc.gov/documents/rules/permanent-amendment-no-change-publication/download?attachment>.

(a), line 4: "license" should be replaced with "licensee".

(a)(2): Add an oxford comma after "methods".

(a)(3), line 12: What does "regularly employed" mean? Can "regularly" be removed?

(a)(4): Add an oxford comma after "consultants".

(a)(4): What does "or paid as such" mean in this context? Can you be more clear/specific in the rule?

Christopher S. Miller
Commission Counsel

Date submitted to agency: October 29, 2025

(a)(5): This sentence is too long, making it unclear and confusing. Please revise by breaking it up. Also, is this meant to be a separate requirement from (a)? Or should it be included in (a)'s list? It is not clear as written.

(a)(5), line 15: Correct the tense of "utilized" to "utilize".

(b), line 21: "licensee" should also be struck through.

History Note: The final line, line 33, should end with a period.

General Formatting: Certain spacing between lines, such as 27-28 and 34-35, appears to be off. Please correct this to comply with 26 NCAC 02C .0108.

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

21 NCAC 18B. 0306 is amended as published in NCR 39:24, pages 1616-1617 as follows:

21 NCAC 18B .0306 BONA FIDE EMPLOYEE

(a) For the exemption for electrical work done as a bona fide employee of a license under G.S. 87-43.1(3), the following conditions must be met:

- (1) The restrictions of the employing licensee's license apply to any employee of the licensee.
- (2) The employing licensee shall have control and direction of the details, methods and manner of performing the electrical work being done by the employee. ~~The manner of payment, if any, to the person shall not be the sole determining factor concerning whether the person is an employee.~~
- (3) The electrical work shall be performed under the supervision and direction of a listed qualified individual who is the employing licensee, or under the supervision and direction of a listed qualified individual regularly employed by the employing licensee.
- (4) Persons acting as independent contractors, consultants or subcontractors, or paid as such, are not bona fide employees.
- (5) Licensed contractors may utilized employees shared with a labor supplier but only under a written contract which allocates payroll or tax withholding obligations to the labor supplier while also placing the responsibilities of control and supervision of all electrical work upon the listed qualified individual and licensed firm who remain obligated to the owner or general contractor for all electrical installations, and further provided that the listed qualified individual is a bona fide employee of the licensed firm.

(b) ~~The employing licensee, the employee, and every listed qualified individual of the licensee~~ Every listed qualified individual and all employees of the licensed firm shall furnish any information the Board may require, including affidavits, to evaluate and determine a claim of employee exemption.

(c) When the information furnished to the Board does not substantiate compliance with this Rule, the individual shall be deemed to be an independent contractor rather than an employee and shall be subject to G.S. Chapter 87, Article 4.

History Note: Authority G.S. 87-42;

Eff. October 1, 1988;

Amended Eff. April 1, 1993; February 1, 1990;

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

Amended Eff. January 1, 2026;