

Is a Contractor's License and Building Permit Required to Install Industrial Manufacturing Equipment?

Related Professionals

David J. Parrish
843.720.1771
dparrish@maynardnexsen.com

Practices

Construction Law

06.25.2020

National and international manufacturing companies continue to open new manufacturing facilities, and expand their existing facilities, in North Carolina and South Carolina. This gives rise to the issue of whether the manufacturing equipment used in such facilities must be installed by a licensed contractor under a building permit.

For example, manufacturing facilities often contain large and specialized processing and assembly line equipment, such as painting equipment, conveyor systems, robotic welding systems, and equipment that produce electricity, steam and pneumatic air to support the processing equipment. Such equipment is manufactured elsewhere and then shipped to and installed after construction of the building shell is completed (though sometimes very large equipment must be installed during construction of the building, before the roofs and walls are complete). The equipment manufacturers (i.e., the equipment vendors) send their own employees to install the equipment and assist with startup and testing.

In other words, once the manufacturing building shell (e.g., the roofs, walls, and floors) has been constructed by others (presumably by a licensed general construction contractor) and is ready to receive the manufacturing equipment, the equipment vendor ships the equipment to the site and sends its own employees to install its equipment inside the building. It is not uncommon that such equipment is manufactured overseas and for the foreign vendors to fly their employees to North Carolina or South Carolina to install the equipment.

North Carolina specifically exempts from the definition of "general contractor" any person or corporation "furnishing or erecting industrial equipment (N.C.G.S. 87-1(b)(1)). The North Carolina State Building Code was amended in 2007 to clarify that "industrial machinery" is not subject to regulation under the North Carolina Building Code (N.C.

Gen. Stat. Ann. § 143-138(b9)). The term “industrial equipment” means machinery and equipment that is part of the process of producing a product. The term does not include machinery and equipment permanently attached to, or is a component part of, the building, such as heating, ventilation and air conditioning systems. North Carolina building inspectors will not inspect industrial equipment for compliance with building codes, but they will inspect and apply code requirements to points of connections of the industrial equipment to the building electrical system. Moreover, building officials may require a building permit for installation of industrial equipment and require that connection of the equipment to the building electrical system be performed by a licensed electrical contractor.

Unlike North Carolina, the South Carolina Building Code does not address the issue of industrial equipment. However, a 1978 South Carolina Attorney General Opinion concluded that a company engaged in unloading, moving, and securing certain machinery to the foundation of a building previously constructed to house such machinery is not required to have a South Carolina general contractor's license to do such work. However, the work involved in connecting certain machine supply lines, such as water, air, and vacuum, necessitates it be performed by a licensed contractor (South Carolina Attorney General Opinion No. 78-72 (April 12, 1978), 1978 WL 22553). Attorney General opinions, while persuasive, are not binding upon the South Carolina courts. Nonetheless, the factual situation and analysis presented in the 1978 Opinion, and the supporting authority from other jurisdictions, are persuasive, and South Carolina building code officials will be inclined to scrutinize whether installation of large industrial equipment and systems constitutes contracting work for which a contractor's license is required.

While industrial equipment may be exempt from the requirements of the building code, a building permit and a contractor's license may be required to install the equipment in a building and connect it to the building's systems. Therefore, the project owner, building shell contractor, and industrial equipment vendor should carefully delineate the scope of their respective responsibilities related to the equipment installation and connection, because it directly affects permitting, inspection, insurance, bonding requirements, and overall project responsibilities and financial exposure.

Our insights are published as a service to clients and friends. They are intended to be informational and do not constitute legal advice regarding any specific situation.