

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Well Contractors Certification Commission

RULE CITATION: 15A NCAC 27 .0101

DEADLINE FOR RECEIPT: Thursday, December 7, 2017

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 call our office to inquire concerning the staff recommendation.

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

Given 87-98.2, are (a), (c), (d), and (h) necessary? These are already defined in statute. Please consider deleting these and say something like, "In addition to the definitions set forth in G.S. 87-98.2, the following shall apply:"

In (b), please change "university, which" to "university, which university that"

In (b), how is it determined whether a college course is relevant to well contractor activities? Are the parameters for this set forth elsewhere?

In (c), I don't see "course/activity" used elsewhere in your rules. Do you mean activity, since you already have course defined in (b)?

In (c), please delete or define "clear"

In (g), what is meant by "nominal"? I don't understand its use here. Can it be deleted?

In your History Note, please add a period at the end of Readopted Eff. January 1, 2018.

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

Amber May
Commission Counsel
Date submitted to agency: November 27, 2017

1 15A NCAC 27 .0101 is amended without notice pursuant to G.S. 150B-21.5(a)(4) as follows:

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3 **15A NCAC 27 .0101 DEFINITIONS**

4 (a) "Commission" means the Well Contractors Certification Commission as established by the North Carolina
5 General Assembly.

6 (b) "College course" means a semester unit or quarter hour unit of instruction given at a college or university, which
7 is relevant to well contractor activities.

8 (c) "Course/activity" means any course or activity with a clear purpose and objective which will maintain, improve
9 or expand skills and knowledge relevant to the practice of well contractor activities.

10 (d) "Department" means the Department of ~~Environment and Natural Resources~~. Environmental Quality.

11 (e) "Personally manage" means giving directions to the on-site person who is personally supervising well contractor
12 activities.

13 (f) "Personally supervise" means the on-site direction and control of all well contractor activities at any time those
14 activities are being conducted.

15 (g) "Professional development hour" or "PDH" means a nominal contact hour of instruction or presentation that is the
16 basic unit of credit for all courses or activities related to satisfying continuing education requirements and shall
17 hereafter be referred to as "continuing education unit" or "CEU". One CEU is equivalent to 60 minutes of instructional
18 time.

19 (h) "Secretary" means the Secretary of the Department of ~~Environment and Natural Resources~~. Environmental
20 Quality.

21

22 *History Note: Authority G.S. 87-98.2; 87.98.12; 143B-301.11;*

23 *Temporary Adoption Eff. December 15, 1998;*

24 *Eff. August 1, 2000;*

25 *Amended Eff. January 1, 2018; May 1, 2011.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Well Contractors Certification Commission

RULE CITATION: 15A NCAC 27 .0110

DEADLINE FOR RECEIPT: Thursday, December 7, 2017

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 4, please consider changing "are established" with "are as follows:"

In (a)(1), please consider changing "Level A certification: this level of certification includes..." to "Level A ~~certification: this level of~~ certification includes..." Please consider making similar changes to (a)(2), (a)(3), and (a)(4).

In (a)(2) and (a)(3), please consider changing the semi-colons to commas to be consistent with (a)(4).

In (b), I assume based upon your other Rules that there are prerequisites to a certification number being issued? I assume that it is upon application and passage of the examination? If so, you may want to consider saying that here. Also, will the certification level be reflected?

Is the intent of (c) that the well contractor carry the number or the card? I assume that you want them to carry the card. Also, is the card different than the certificate in (b)? I assume so, but wanted to verify.

In (d), what is meant by "appropriate level"? Does this relate back to (a) and certification levels?

In your History Note, please add a period at the end of Readopted Eff. January 1, 2018.

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

Amber May
Commission Counsel
Date submitted to agency: November 27, 2017

1 15A NCAC 27 .0110 is readopted as published in 32:05 NCR 450 as follows:

2

3 **15A NCAC 27 .0110 TYPES OF CERTIFICATION**

4 (a) The following types of certification for well contractors are established:

5 (1) Level A certification: this level of certification includes all well contractor activities and is required
6 for geothermal well and related loop installations;

7 (2) Level B certification: this level of certification includes all Level C well contractor activities;
8 hydrofracturing; and all well construction and all well drilling techniques except sonic, air rotary
9 and mud rotary drilling;

10 (3) Level C certification: this level of certification includes all Level D well contractor activities and
11 grouting; well abandonment; rehabilitating a well due to biofouling; well development (eg.-pumping
12 or surging); packer and liner installations; and extending casing above land surface; and

13 (4) Level D certification: this level of certification includes breaking a well seal, installation of a pump
14 or other equipment in a well, and disinfection.

15 (b) Each certified well contractor shall be assigned a permanent certification number and shall be issued a certificate
16 with that certification number. Certification numbers are not transferable and shall not be used by another well
17 contractor.

18 (c) The certification number shall be carried by the well contractor on a card issued by the Commission at all times
19 when performing well contractor activities.

20 (d) A certified well contractor of the appropriate level must be present at all times when well contractor activities
21 are being performed.

22

23 History Note: Authority G.S. 87-98.2; 87-98.4; 87-98.12; 143B-301.11;

24 Temporary Adoption Eff. December 15, 1998;

25 Eff. August 1, 2000;

26 Amended Eff. July 3, 2012; May 1, 2008.

27 Readopted Eff. January 1, 2018

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Well Contractors Certification Commission

RULE CITATION: 15A NCAC 27 .0301

DEADLINE FOR RECEIPT: Thursday, December 7, 2017

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 call our office to inquire concerning the staff recommendation.

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

Please consider simplifying this Rule.

Who is the intended target of this Rule? I assume that it is the applicant, but as written, the Commission is being given the directive. Please consider revising the Rule to provide directives to the applicants. For example, in (a), rather than "The Commission shall accept applications..." say something like "An applicant for well contractor certification shall submit an application to the Commission..."

In (a), what is your authority to require that persons be at least 18 years of age?

For (a), assuming that you have the authority to do it, I would suggest making the age requirement of it's own Paragraph and then making the application requirements (including the necessary documentation) a separate Paragraph. This may make your Rule more clear overall.

In (a)(1), are the contents of the form set forth elsewhere in Rule or statute? If not, please provide the required contents of the Rule. Also, is this form the application or are there other potential forms that will be necessary? I understand that there are different applications for different levels, but are the substantive requirements the same? I see that these are available on your website, please provide that information.

In (a)(1), what are the "appropriate fees"? Is there a cross-reference available? Is it 15A NCAC 27 .0201?

Given that you are requiring payment of the fee and that a complete application be submitted, is (a)(2) necessary?

In (a)(3), I don't see that (e) actually sets forth what kind of proof is necessary for coursework. What kind of coursework qualifies and what

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Commission Counsel

Date submitted to agency: November 27, 2017

kind of proof will be sufficient? For example, do you need a transcript of courses taken?

I'm a bit confused by (a)(4). I don't see that renewal is an option on your application forms on your website. Is this a separate form or do your folks use the same application? How do you all know this is a renewal?

In (b), please provide the directive to your applicant, rather than to your Commission.

In (b), line 16, what are "all other conditions for certification"? Is this speaking to this the education and experience requirements set forth elsewhere in your Rules?

In (b), lines 16-19, would the information concerning the examinations be better placed in .0440 for purposes of clarity?

In (b), line 19, please delete "be required to" in "shall be required to obtain"

In (b), line 19, what are CEUs? I realize that they are probably continuing education units, but is there a cross-reference available that sets forth what qualifies as a CEU? Is it .0820?

In (c), when will a field observation be required? In accordance with .0401 and (e) of this Rule?

In (c), where is the underlying requirement that the applicant provide a photograph? Is this required at the time of application?

Since much of this language appears to be duplicative and is already contained in .0702. Is this duplicative language necessary? Please consider revising (d) as follows:

(d) Proof of full-time equivalent experience ~~meeting the requirements as specified in Rule .0702 of this Chapter, Chapter in level specific well contractor activities obtained within seven years prior to application submittal or previous certification by examination at a comparable or higher level,~~ shall be demonstrated by providing one of the following:

In (d)(1), (3), and (4), what is meant by "a minimum of the required quantity of experience"? This language is not used in .0702. Is it necessary, particularly given your cross-reference to .0702?

What is (d)(1) requiring? Is it simply payroll records showing and an affidavit from a NC certified well contract saying that the applicant has worked in the well contracting field at the level sought? Is it necessary that the well contractor that is essentially supervising the applicant have the same or higher level certification? It seems as though this could be more clear.

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In (d)(1), please add a comma after 02C and delete “or” in between 02C and “this Chapter”

In (d)(2), what kind of proof would be sufficient? An all inclusive list is not necessary, but some examples would be helpful.

What is the intent of (d)(3)? I’m not sure that I understand what is being required here. How is it determined whether the other state’s licensing or certification requirements are comparable? Some additional information needs to be provided as to how this determination will be made.

In (d)(4), please delete or define “specific”

In (d)(4), what is meant by “instruction”? Is this education, experience, or both?

In (d)(4), how will it be determined whether the level of instruction is appropriate? What are the factors? Also, some examples of proof would be helpful.

In (e), please change “shall approve a course of study whose” to “study that”

In (e), how will the Commission determine whether to approve a course of study? I understand that it be approved if the education materials and program meets technical aspects of well construction, but how will this be determined? What factors will be used?

In (e), by “needs to know education” to you mean “need to know education”? What is meant by “need to know education”? How is this determined? Please delete or define.

In (e), how will it be determined whether the experience requirements will be reduced? How will it be determined how by how much time the experience requirements will be reduced if it is? Also, how will it be determined whether the field observation will be waived? As written, this provision is unclear. Please provide some additional information.

In the History Note, why is Session Law 2001-440 being included? I assume at this point all of the language has been fully incorporated into your statutes making the reference to the Session Law unnecessary. Please add 87-98.12 and 87-98.14.

In your History Note, please add a period at the end of Readopted Eff. January 1, 2018.

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

Amber May
Commission Counsel
Date submitted to agency: November 27, 2017

1 15A NCAC 27 .0301 is readopted as published in 32:05 NCR 450 as follows:

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3 **15A NCAC 27 .0301 APPLICATION FOR CERTIFICATION**

4 (a) The Commission shall accept applications for certification as a well contractor from any person who is at least 18
5 years of age and whose application meets all the following conditions:

6 (1) Each application shall be submitted on current forms provided by the Commission, which are
7 designed for requesting certification as a well contractor by way of examination or reexamination
8 and must be completed and submitted with the appropriate fee(s) to the Commission office;

9 (2) Incomplete applications and applications not accompanied by the appropriate fee(s) and attachments
10 shall not be processed and shall be returned to the applicant;

11 (3) Each application shall contain proof of experience as provided in Paragraph (d) of this Rule and
12 proof of completion of coursework as provided in Paragraph (e) of this Rule if applicable; and

13 (4) Except for those applications where renewal of certification is requested, each application shall
14 include a request for the well contractor examination.

15 (b) The Commission shall not schedule an applicant to take the required examination until the application has been
16 reviewed and the applicant has met all other conditions for certification. The applicant must pass the examination
17 within three consecutive attempts or within a one year period of time after application submittal, whichever expires
18 first, or a new application shall be required. An applicant who has failed the examination after three consecutive
19 attempts shall be required to obtain eight CEUs prior to resubmittal of an application for certification.

20 (c) A certification shall not be issued until all applicable fees have been received, the applicant passes the field
21 observation for Level A if required, the applicant passes the required written examination, and a photograph is obtained
22 of the applicant by a representative of the Commission.

23 (d) Proof of full-time equivalent experience meeting the requirements specified in Rule .0702 of this Chapter in level
24 specific well contractor activities obtained within seven years prior to application submittal or previous certification
25 by examination at a comparable or higher level, shall be demonstrated by providing one of the following:

26 (1) An affidavit on a form provided by the Commission from at least one currently North Carolina
27 certified well contractor who has not committed any violation of either 15A NCAC 02C or this
28 Chapter, or any county well ordinance within the past two years, attesting that the applicant has been
29 working in well contractor activities under the supervision of a certified well contractor of the
30 desired level or higher for a minimum of the required quantity of experience and submits appropriate
31 payroll records as proof;

32 (2) Proof of previous certification by examination as a well contractor in North Carolina at a comparable
33 or higher level;

34 (3) Proof of individual certification as a well contractor in another state with comparable licensing or
35 certification requirements for a minimum of the required quantity of experience for the level being
36 sought and of activities appropriate to the level being sought and submits appropriate payroll records
37 as proof. A letter of good standing from that state's well contractor licensing or certification

1 organization must be included showing the applicant has not violated well construction or licensing
2 rules of that State in the past five years; or

3 (4) Any other specific proof of working in well contractor activities for a minimum of the required
4 quantity of experience. At a minimum, the proof submitted shall demonstrate that the applicant has
5 received a level of instruction in well construction techniques and practices appropriate for the level
6 being sought.

7 (e) The Commission shall approve a course of study whose educational materials and program meets technical aspects
8 of well construction. The course of study shall provide needs-to-know education for the level being sought. The
9 experience requirements for an applicant may be reduced up to three months and the Level A field observation may
10 be waived for successful completion of the course.

11
12 *History Note: Authority G.S. 87-98.5; 87-98.6; 87-98.9; 143B-301.11; S.L. 2001-440;*

13 *Temporary Adoption Eff. December 15, 1998;*

14 *Eff. August 1, 2000;*

15 *Codifier determined that findings did not meet criteria for temporary rule on July 12, 2002;*

16 *Temporary Adoption Eff. September 12, 2002;*

17 *Amended Eff. May 1, 2011; May 1, 2008; August 1, 2004.*

18 *Readopted Eff. January 1, 2018*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Well Contractors Certification Commission

RULE CITATION: 15A NCAC 27 .0410

DEADLINE FOR RECEIPT: Thursday, December 7, 2017

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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 call our office to inquire concerning the staff recommendation.

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

In (a), what is meant by "comprehensive examinations"? Are there different examinations for each classification contained in .0110? If so, that is not clear here. Is there another Rule providing clarification?

In (a), what are "field observations"? This is the first time I see it mentioned in this Rule? Is it part of the examination or is it a separate thing?

In (a), what is your authority to require that examinations and field observations be conducted in English?

In (b), what is the "request form"? Is this a specific request form for an accommodation, is this the request form to take the exam? Are the contents of the request form set forth elsewhere in rule or statute? If not, please provide the contents of the form in rule.

Also in (b), what is considered to be "supporting documentation from a physician"? Are you looking for something specific?

In your History Note, please add a period at the end of Readopted Eff. January 1, 2018.

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

Amber May
Commission Counsel
Date submitted to agency: November 27, 2017

1 15A NCAC 27 .0410 is readopted as published in 32:05 NCR 450 as follows:

2

3 **15A NCAC 27 .0410 WELL CONTRACTOR EXAMINATIONS**

4 (a) Well contractor examinations shall be comprehensive examinations that are standardized statewide. The
5 examinations shall be designed to determine the applicant's knowledge of applicable rules; the ability to perform well
6 contractor activities; and the ability to supervise, direct, manage and control the contracting activities of the well
7 contracting business. Examinations and field observations shall be conducted in English.

8 (b) If a request for an accommodation in taking the examination is based on a medical condition, the applicant shall
9 submit, in addition to a request form, supporting documentation from a physician.

10 (c) A grade on the examination of 70 percent or more shall be passing. Results of the examination shall be reported
11 as either passing or failing.

12

13 History Note: Authority G.S. 87-98.6; 143B-301.11;

14 Temporary Adoption Eff. December 15, 1998;

15 Eff. August 1, 2000;

16 Amended Eff. May 1, 2011; May 1, 2008.

17 Readopted Eff. January 1, 2018

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Well Contractors Certification Commission

RULE CITATION: 15A NCAC 27 .0420

DEADLINE FOR RECEIPT: Thursday, December 7, 2017

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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 call our office to inquire concerning the staff recommendation.

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

Given your other examination Rules, is this Rule necessary?

If it is necessary, please consider deleting "at least" on line 4. Also, where is the exam going to take place? How will your regulated public know? I understand that you have indicated that it is available upon request, but how will your regulated public know if an additional exam is scheduled? How are they to know to call and request the information, if they don't know that an additional exam has been scheduled.

How will it be determined whether additional examinations will be offered? What factors will be used in making this determination?

Line 5, do you have an address rule that notifies your regulated public how to contact you? Alternatively, is this information available on your website?

In your History Note, please add a period at the end of Readopted Eff. January 1, 2018.

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

Amber May
Commission Counsel
Date submitted to agency: November 27, 2017

1 15A NCAC 27 .0420 is readopted as published in 32:05 NCR 450 as follows:

2

3 **15A NCAC 27 .0420 TIME AND PLACE OF EXAMINATION**

4 An examination shall be given at least twice a year. Additional examinations may be scheduled by a representative(s)
5 of the Commission. Information regarding the date, time, and place shall be made available upon request.

6

7 History Note: Authority G.S. 87-98.6; 143B-301.11;

8 Temporary Adoption Eff. December 15, 1998;

9 Eff. August 1, 2000;

10 Amended Eff. May 1, 2011.

11 Readopted Eff. January 1, 2018

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Well Contractors Certification Commission

RULE CITATION: 15A NCAC 27 .0440

DEADLINE FOR RECEIPT: Thursday, December 7, 2017

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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 call our office to inquire concerning the staff recommendation.

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

Given 93B, particularly 93B-3 and 93B-8, why do you need this Rule?

If this Rule is needed, what is the overall intent? I read it to simply say that the Board will notify applicants of their results, if they passed, then the Board will issue a certification, if they do not pass, then the applicant may review his or her examination in accordance with G.S. 93B-8(c) within six months. If that's correct, please consider simplifying this Rule to say that.

In (a) and (b), who are "authorized representatives"?

In (a), line 6, is "After each examination, a list of those passing shall be drawn up and made a part of the permanent records of the Commission" necessary? This not only appears to be internal management of the Board, but also appears to be addressed by 93B-3.

In (b), what is considered to be "normal circumstances"? Is this language necessary? Please either delete or define "under normal circumstances."

In your History Note, please add a period at the end of Readopted Eff. January 1, 2018.

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

Amber May
Commission Counsel
Date submitted to agency: November 27, 2017

1 15A NCAC 27 .0440 is readopted as published in 32:05 NCR 450 as follows:

2

3 **15A NCAC 27 .0440 EXAMINATION RESULTS AND ISSUANCE OF CERTIFICATES**

4 (a) After an examination, the applicant shall be informed, in writing only, by the Commission or its authorized
5 representatives as to the results of his or her examination. If a passing score is obtained, such notification constitutes
6 certification by the Commission. After each examination, a list of those passing shall be drawn up and made a part of
7 the permanent records of the Commission. Upon completion of the examination process, applicants who pass the
8 examination shall be issued a certificate.

9 (b) Under normal circumstances, neither the examination grade nor the examination paper of any applicant shall be
10 made available to anyone other than the members of the Commission and its authorized representatives who assist in
11 conducting and grading the examinations. The examination papers shall be held by the Commission in a secure
12 location for a period of six months following notification to the applicant. Questions by the applicant concerning the
13 examination must be made in writing to the Commission within six months of the notification date. An applicant who
14 fails to pass an examination, and who is still eligible to retake the examination under their current application, shall
15 be entitled to and notified of the privilege to review his or her examination, within six months of the applicant's failed
16 exam, in the presence of one or more Commission members or its authorized representative.

17

18 *History Note: Authority G.S. 87-98.6; 87-98.8; 143B-301.11;*

19 *Temporary Adoption Eff. December 15, 1998;*

20 *Eff. August 1, 2000;*

21 *Amended Eff. May 1, 2011.*

22 *Readopted Eff. January 1, 2018*