

Minutes
Well Contractors Certification Commission Meeting
November 5, 2014
Raleigh, NC

The regularly scheduled meeting of the Well Contractors Certification Commission was called to order on Wednesday, November 5, 2014 at **11:10 am** at 5605 Six Forks Rd. ("Bldg 3"), Raleigh, NC, 1st Floor, Cardinal Conference Rm. with Chairman Casey Champion presiding. The following persons were in attendance for the meeting:

Commission Members

John Boyette Jr
David Brown
Cassandra Champion
Chris Dickey (via phone)
Jonathan Dills (via phone)
Daniel Ortiz
Thomas Whitehead
Billy Yow

WCC Staff

Andrew Morgan
Joanne Rutkofske

DHHS Staff

Wilson Mize
Larry Michael

Legal Staff

John Barkley

Guests

Senator Trudy Wade, NC Senate
Kathy Hartsell, NC General Assembly, Senate Staff
Mike Rogers, Division of Water Resources

I. Preliminary Matters

(1) Chairman Casey Champion welcomed everyone in attendance and called the meeting to order. She then read the NC State Government Ethics Act which mandates that the Chairman inquire as to whether any member knows of a conflict of interest or appearance of conflict with respect to matters before the Commission. She asked if any member knows of a conflict of interest or appearance of a conflict. No conflicts noted.

(2) The chairman also read a statement on the purpose of the Well Contractors Certification Commission: (Article 7A-Well Contractors Certification, G.S. 87-98.3). **Purpose:** It is the purpose of this Commission to protect the public health and safety by ensuring the integrity and competence of well contractors, to protect and beneficially develop the groundwater resources of the State, to require the examination of well contractors and the certification of their competency to supervise or conduct well contractor activity, and to establish procedures for the examination and certification of well contractors.

(3) Presentation of Service Award to Commissioner Dickey- Commissioner Dickey was not able to attend in person, he phoned in instead. Chairman Champion expressed thanks for his six years of service on the Commission.

(4) Statement of Economic Interest for William "Billy" Yow- The statement was reviewed. The State Ethics Commission did not find a conflict of interest but a potential for a conflict of interest.

(5) Swearing in of New Commissioner- Willian "Billy" Yow sworn in by Senator Trudy Wade.

(6) Appointments- Thomas Whitehead volunteered to take the Budget Committee position. Commissioner Ortiz made a motion to nominate Thomas Whithead to the position of Chair of the Budget Committee. Commissioner Dills made a second to the motion. A vote was taken and the motion passed unanimously.

Commissioner Dills made a motion to keep Commissioner Champion on as Chairman for now. Commissioner Whitehead made a second to the motion. A vote was taken and the motion passed unanimously. Commissioner Ortiz volunteered to take the Chair position once Chairman Champion comes off.

Commissioner Dills volunteered to take the Vice Chair position. Commissioner Ortiz made a motion to nominate Commissioner Dills to the position of Vice Chair of the Commission. Commissioner Whitehead made a second to the motion. A vote was taken and the motion passed unanimously.

The Commission reviewed the revised Commission roster. Two edits were noted.

(7) Approval of Minutes- The Commission reviewed the May 7, 2014, meeting minutes. Commissioner Boyette made a motion that the minutes be approved. Commissioner Dills made a second to the motion. Commissioner Yow abstained from voting. A vote was taken and the motion passed unanimously.

(8) Notation of Any Revisions or Additions to the Agenda- None.

II. Action Items

(1) Impact of G.S. 93B-15.1, Military Experience

Commission counsel John Barkley discussed with the Commission. This is to provide for licensure for those with equivalent military experience. Counsel Barkley sought to address the question: Do we need to adopt rules to address this section? He looked into what other Boards and Commissions have done and provided examples. Counsel Barkley recommends to use those as a guide, working with staff to draft rule language. Chairman Champion directed counsel to proceed with drafting rule language.

(2) 15A NCAC 27 Rule Changes

Draft rule changes to Section .0800 reviewed by the Commission. Changes to this Section are being made to conform to General Statute changes passed in Session Law 2014-2.

Commissioner Yow brings up a different topic of IGSHPA and NATE geothermal training. Commissioner Brown mentions NGWA offers a separate exam for Geothermal. Commissioner Boyette is in favor of continuing education for geothermal. Have volunteer continuing education credit that can include geothermal. Commissioner Yow would like to see a statutory change. Barkley mentions applying for a statutory change. Need memorandum to legislature.

Commissioner Ortiz made a motion for staff and Review Committee to draft proposed legislation to the General Assembly regarding certification and continuing education for geothermal drillers, then bring back to full Commission.

Staff requests better clarification on direction Commission wants to take on this.

Commissioner Dills asked Commissioner Yow what he proposed we do. Commissioner Yow recommended the Commission submit a letter of explanation to a committee of the state as to what we have seen as experienced drillers; the number of drillers certified to do it (but may not know how); and to bring this into a more federal mindset, that they have to be NATE or IGSHPA certified contractor, be NC certified well contractor (Level A), and provide information based on their level of experience from a heating and air contractor showing that does this type work and that is registered in the state of NC. From there this commission could set up the continuing education, as to what they would need to put in place providing that we are going to set it up so that it would be taught about geothermal protecting groundwater.

Stepping back on topic, Commissioner Dills made a motion to adopt the rule amendments as drafted (Chap 27 .0800) Commissioner Brown made a second to the motion. A vote was taken and the motion passed unanimously.

Discussion on geothermal drillers continued. Have commissioners email concerns to staff regarding certification and continuing education of geothermal drillers. The feedback to be brought to the Review Committee to draft legislative proposal language to bring back to Commission.

Commissioner Ortiz made a motion for the Review Committee to draft a legislative proposal to the General Assembly regarding certification and continuing education for geothermal drillers, then bring back to full Commission. Commissioner Boyette made a second to the motion. A vote was taken and the motion passed unanimously.

(3) Certification Clarification- Oil/Gas, Fracking for Natural Gas

In 2011 the Commission clarified that oil and natural gas drilling, including off-shore, does require well contractor certification. In June 2014 session law exempted this activity from well contractor certification.

Commissioner Ortiz voiced concerns of potential for groundwater contamination with this activity. The Well Contractors Certification Commission was not included in discussions that led to having this activity exempted. Send letter to Mining Commission? Commissioner Yow said would be better for the Mining Commission to receive concerns from the legislature.

Send letter to legislative oversight committee for gas/oil. Territorial waters extend out three miles from shore.

Commissioner Brown made a motion for the Review Committee to draft letter to legislative fracking committee in reference to public health drinking water concerns, to then be forwarded to the Mining Commission, with clarifications of on-shore and off-shore drilling. Commissioner Boyette made a second to the motion. A vote was taken and the motion passed unanimously.

(4) Certification Clarification- Geotechnical

Chairman Champion introduces the topic. In 2002 the Commission clarified that operating a geoprobe is a well contractor activity. In 2009 the Commission clarified that using motorized equipment to obtain soil borings such as with work for building foundations requires certification as a well contractor, level A or B. In 2010 the Commission clarified that geotechnical investigations where soil samples are collected via standard penetration testing does require certification. Penalties have been assessed in the past for doing geotechnical work without certification.

In 2014 staff investigates geotechnical drilling activity. While in field with contractor staff directed by Wilson Mize to not enforce, despite past decisions and guidance from Commission, that it is not a "well" and therefore not a well contractor activity.

The Commission updates the geotechnical clarifications to require certification for constructing monitoring wells with a geoprobe, but not for using a geoprobe to collect soil samples. Certification not required for using motorized equipment to obtain soil samples. Certification is required to collect a water sample with screen point. Horizontal directional drilling to install a well does require certification; for geotechnical soil boring for compaction samples or installation of utilities it does not.

(5) Certification Clarification- Geothermal

For closed-loop geothermal wells certification is required.

(6) Certification Clarification- Disinfection by Exempt Plumber

Chairman Champion noted that this topic mirrors the upcoming informational item of update on meeting with Dale Dawson regarding the certification exemption for plumbers, so will cover it here. At the meeting our comparison reference of exempt plumbers vs. level D well contractors was discussed.

Dale Dawson was happy with everything on the chart except he would like exempt licensed plumbers to be able to resanitize the well up to three times after pump installation/replacement.

Commissioner Yow made a motion for the Commission to maintain their current position that the exempt plumber may only chlorinate the well **once**, to be "incident to" the pump repair/replacement. Commissioner Boyette made a second to the motion. A vote was taken and the motion passed unanimously.

The Commission also reiterated the plumber exemption applies to the actual licensed plumber, not the sublicensee. The general statute clearly states "a person who is licensed as a plumbing contractor."

(7) 2015 Meeting Dates

The Commission reviewed and approved the meeting dates for 2015.

III. Information Items

(1) Update on meeting with Dale Dawson (Plumbing Board)-

The Commission reviewed an article published by the Plumbing Board regarding the plumber exemption for pump installation. Some very minor edits were made for future printings after concerns were voiced by Commission staff that confusion was being created by the article over what activities are covered by the exemption.

(2) Office of Attorney General Enforcement Update -

Assistant Attorney General John Barkley was in attendance. Nothing to report at this time.

(3) G.S. 87-98.12 Change in Continuing Education Requirement-

Staff reported to the Commission that a General Statute change has reduced the continuing education requirement to only 2 CEU and only for the first three years of certification. Continuing education may also be required in cases of disciplinary action. Commissioner Boyette asked if there could be voluntary continuing education. It was clarified that any preapproved continuing education submitted is still added to the database; there is no limit.

(4) TN Reciprocity Agreement-

Chairman Champion reported that the reciprocity agreement with TN is now in effect.

(5) Electrical License Exemption, SB734

The exemption took effect September 18, 2014. Fifteen questions have been added to all levels of the certification exam for those that apply for certification on or after September 18. The Electrical Board was of great assistance in developing the new electrical exam questions.

(6) Staff Report

The staff report was presented by Drew Morgan. The report included exam statistics for 2014. Some of the field observations have had problems such as permits not being obtained and drilling starting days before observation scheduled.

(7) Budget Committee Report

The Budget Committee report was presented by Chairman Champion. The Committee approved \$2,499 for Pender County to provide training to well contractors. Buncombe County has also applied for funding. New Chap. 27 rule books are approved to be printed. Outreach supplies for the booth were also approved. Staff will have a booth in 2015 at the Soil Science Society.

(8) Disciplinary Committee Report

The Disciplinary Committee report was presented by Chairman Champion. There was one disciplinary action on October 1. The contractor failed to grout. The contractor received a letter of reprimand and requirement to complete 6 hours of continuing education by June 30.

(9) Review Committee Report

Commissioner Ortiz presented the Review Committee report for Committee meetings held May–October 2014. Approximately 24 level A applicants, 4 level B, 9 level C, 8 level D approved. Several courses were reviewed and approved. Some courses were denied approval because they did not meet the 30-day preapproval requirement.

Commissioner Yow inquired on the trends for applications and exams. Chairman Champion replied that the number of exams given is down.

Commissioner Yow asked if there is any provision to reduce the amount of experience time needed before taking the exam by using an apprenticeship and continuing education. Staff pointed out that such a provision is in our rules, but not much availability of appropriate training programs. The programs that are around are generally much longer than the amount of experience time they would reduce. Chairman Champion suggested maybe NCGWA could develop and offer this type of training.

(10) Ethics Update

Joanne Rutkofske provided the Ethics update. A tracking list of when each Commissioner must obtain additional Ethics training was provided.

V. Upcoming Meetings

Commission Meeting – February 10, 2015 @10am, 5605 Six Forks Rd., Raleigh, NC

Review Committee – January 6, 2015 @10am, 4000 Chi Rd., Raleigh, NC

Budget Committee – January 30, 2015 @10am, Greensboro, NC (@NCGWA)

VI. Closing Remarks

Commission Boyette asked if any talk of reducing fees. There is a declining number of contractors and if fees reduced would be extremely difficult to raise back up in the future as costs rise. Commissioner Brown was not in agreement over funding given to counties to provide CE training. Some discussion of possibly having staff provide some training.

Michael Rogers with Division of Water Resources introduced himself. Eric Smith used to be the coordinator for the 2C.0100 rules but has been put on ash ponds full time so now Michael will cover 2C.0100 concerns. He mentioned the Commission possibly introducing an "inactive" status with a reduced fee as is done in Florida.

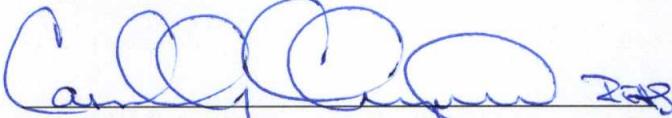
VI. Adjournment

With no further business or comments from Commission or Staff, the meeting was adjourned at 2:45 p.m.

Respectfully submitted,

Joanne Rutkofske
WCC Staff

Approved by WCCC:



Cassandra "Casey" Champion, REHS, NCWC
Chairman, Well Contractors Certification Commission

www.wellcontractors.nc.gov

02-23-2015

Date