NC General Statutes: Chapter 87, Article 7A
North Carolina Well Contractors Certification Act

§ 87-98.1. Title.

This Article may be cited as the North Carolina Well Contractors Certification Act. (1997-358, s. 2.)

§ 87-98.2. Definitions.

The definitions in G.S. 87-85 and the following definitions apply in this Article:

(1) Commission. – The Well Contractors Certification Commission, as established by G.S. 143B-301.11.

(2) Department. – The Department of Environment and Natural Resources.

(3) Person. – A natural person.

(4) Secretary. – The Secretary of Environment and Natural Resources.

(5) Well contractor. – A person in trade or business who undertakes to perform a well contractor activity or who undertakes to personally supervise or personally manage the performance of a well contractor activity on the person's own behalf or for any person, firm, or corporation.

(6) Well contractor activity. – The construction, installation, repair, alteration, or abandonment of any well. (1997-358, s. 2; 1997-443, s. 11A.119(b); 2002-165, s. 1.1.)

§ 87-98.3. Purpose.

It is the purpose of this Article 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. (1997-358, s. 2.)

§ 87-98.4. Well contractor certification required; exemptions.

(a) Certification Required. – No person shall perform, manage, or supervise any well contractor activity without being certified under this Article. A person who is not a certified well contractor or who is not employed by a certified well contractor shall not offer to perform any well contractor activity unless the person utilizes a certified well contractor to perform the well contractor activity and, prior to the performance of the well contractor activity, the person discloses to the landowner in writing the name of the certified well contractor who will perform the well contractor activity, the certification number of the well contractor, and the name of the company that employs the certified well contractor.

(b) Exempt persons and activities. – This Article does not apply to any of the following persons or activities:

(1) A person who is employed by, or performs labor or services for, a certified well contractor in connection with well contractor activity

performed under the personal supervision of the certified well contractor.

(2) A person who constructs, repairs, or abandons a well that is located on land owned or leased by that person.

(3) A person who is employed by a government agency and who performs well contractor activity solely within the scope of the person's government employment.

(4) A person who is licensed as a professional engineer under Chapter 89C of the General Statutes, a geologist under Chapter 89E of the General Statutes, or a soil scientist under Chapter 89F of the General Statutes who uses a hand auger to collect soil or water samples or to measure water levels. This exemption does not include the construction of a monitoring well.

(5) Construction, repair, or abandonment of a well used for a temporary dewatering activity that is associated with, and necessary to complete construction of, a utility distribution or collection system, a building or other structure, or a transportation system, if all of the following conditions are met:

a. The dewatering well is constructed solely for the purpose of removing water from or lowering the water table in the immediate area of the construction activity.

b. The dewatering well is located within 25 feet of the excavation and is not greater than 25 feet deeper than the excavation.

c. The dewatering well is abandoned in accordance with rules governing the abandonment of wells adopted by the Environmental Management Commission pursuant to G.S. 87-87 within 30 days of installation of the well or within 10 days of completion of the project, whichever is later.

(6) Construction, repair, or abandonment of a well used for a temporary dewatering activity that is associated with the construction of a borrow pit if the dewatering activity is located within 15 feet of the proposed perimeter of the borrow pit.

(7) Exploratory drilling for mining-related investigations.

(8) Installation of a water level observation well on property for which a mining permit has been issued under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

(9) Drilling of a blast hole.

(10) Installation of a cathodic protection anode.

(11) Installation of a wetland monitoring gauge at a depth of eight feet or less for the purpose of monitoring fluctuations in the water table.

(12) Installation of a caisson, piling, or structural pier.

(13) A person who is licensed as a plumbing contractor under Article 2 of Chapter 87 of the General Statutes who installs pumps or pumping equipment; installs, breaks, or reinstalls a well seal in accordance with

G.S. 87-85(6); or disinfects a well incident to the installation, alteration, or replacement of pumps or pumping equipment within or near a well. However, the plumbing contractor shall maintain documentation of having attended a continuing education course that covered well seal installation, protection, and sanitation within the last two years prior to the work being performed. The State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors shall ensure that continuing education courses covering well seal installation, protection, and sanitation are available to licensed plumbing contractors during each six-month continuing education course schedule. The licensed plumbing contractor shall remain on-sitewhile the work is being performed until the well is disinfected and sealed."

(c) Additional Exemptions. – In addition to the exemptions set out in subsection (b) of this section, the Commission may exempt by rule a geophysical activity, construction activity, or other well contractor activity from the requirements of this Article if the Commission finds that the activity has a negligible impact on the environment; public health, safety, and welfare; and the groundwater resources of the State. (1997-358, s. 2; 1998-129, s. 1; 2001-440, s. 1.1; 2005-386, s. 9., 2009-687, s.1)

§ 87-98.5. Types of certification; sole certification.

The Commission, with the advice and assistance of the Secretary, shall establish the appropriate types of certification for well contractors. Each certification type established by the Commission shall be the sole certification required to engage in well contractor activity in the State. (1997-358, s. 2.)

§ 87-98.6. Well contractor qualifications and examination.

The Commission, with the advice and assistance of the Secretary, shall establish minimum requirements of education, experience, and knowledge for each type of certification for well contractors and shall establish procedures for receiving applications for certification, conducting examinations, and making investigations of applicants as may be necessary and appropriate so that prompt and fair consideration will be given to each applicant. (1997-358, s. 2.)

§ 87-98.7. Issuance and renewal of certificates; temporary certification; refusal to issue a certificate.

(a) Issuance. – An applicant, upon satisfactorily meeting the appropriate requirements, shall be certified to perform in the capacity of a well contractor and shall be issued a suitable certificate by the Commission designating the level of the person's competency. A certificate shall be valid for one year or until any of the following occurs:

(1) The certificate holder voluntarily surrenders the certificate to the Commission.

(2) The certificate is revoked or suspended by the Commission for cause.

(b) Renewal. – A certificate shall be renewed annually by payment of the annual fee and proof that the applicant has completed any professional development hours as may be required by the rules of the Commission. A person who fails to renew a

certificate within 30 days of the expiration of the certificate must reapply for certification under this Article.

(c) Temporary Certification. – A person may receive temporary certification to construct a well upon submission of an application to the Commission and subsequent approval in accordance with the criteria established by the Commission and upon payment of a temporary certification fee. A temporary certification shall be granted to the same person only once per calendar year and may not be valid for a period in excess of 45 consecutive days. To perform additional well contractor activity during that same calendar year, the person shall apply for certification under this Article.

(d) Refusal to Issue a Certificate. – The Commission shall not issue a certificate under any of the following circumstances:

(1) The applicant has not paid civil penalties assessed against the applicant under G.S. 87-94 for a violation of this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles.

(2) The applicant has not conducted all restoration activities ordered by the Department related to a violation by the applicant of Article 7 of this Chapter.

(3) As determined by the Commission, the applicant has a history of not complying with this Article, Article 7 of this Chapter, or any rule adopted to implement either of those Articles. (1997-358, s. 2; 2001-440, s. 1.2.)

§ 87-98.8. Disciplinary actions.

The Commission may issue a written reprimand to a well contractor or, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, may suspend or revoke the certificate of a well contractor if the Commission finds that the well contractor has:

(1) Engaged in fraud or deception in connection with obtaining certification or in connection with any well contractor activity.

(2) Failed to use reasonable care, judgment, or the application of the person's knowledge or ability in the performance of any well contractor activity.

(3) Been grossly negligent or has demonstrated willful disregard of any applicable laws or rules governing well construction.

(4) Failed to satisfactorily complete continuing education requirements established by the Commission. (1997-358, s. 2.)

§ 87-98.9. Fees; Well Construction Fund.

(a) Fees. – The Commission may set a fee for certification by examination, an annual fee for certification renewal, and a fee for temporary certification. The fee for certification by examination may not exceed one hundred dollars ($100.00), the annual fee may not exceed two hundred dollars ($200.00) per year, and the temporary certification fee shall not exceed one hundred dollars ($100.00). A well contractor certificate is void if the well contractor fails to pay the annual fee within 30 days of the date the fee is due.

(b) Fund. – The Well Construction Fund is created as a nonreverting account within the Department. All fees collected pursuant to this Article shall be credited to the Fund. The Fund shall be used for the costs of administering this Article. (1997-358, s. 2.)

§ 87-98.10. Promotion of training.

The Commission and the Secretary may provide training for well contractors and cooperate with educational institutions and private and public associations, persons, or corporations in providing training for well contractors. (1997-358, s. 2.)

§ 87-98.11. Responsibilities of well contractors.

All persons receiving certification under this Article to perform well contractor activities in this State shall be responsible for complying with all statutes, rules, and generally accepted construction practices, including all local rules or ordinances governing well contractor activities. (1997-358, s. 2.)

§ 87-98.12. Continuing education requirements.

In order to continue to be certified under this Article, a well contractor shall satisfactorily complete the number of hours of approved continuing education required by the Commission. The Commission shall establish the minimum number of hours of continuing education that shall be required to maintain certification, shall specify the scope of required continuing education courses, and shall approve continuing education courses. (1997-358, s. 2; 1998-129, s. 1; 2001-440, s. 1.3; 2007-495, s. 5.)

§ 87-98.13. Injunctive relief.

Upon violation of this Article, a rule adopted under this Article, or an order issued under this Article, the Secretary may, either before or after the institution of proceedings for the collection of any penalty imposed under this Article for the violation, request the Attorney General to institute a civil action in the superior court in the name of the State for injunctive relief to restrain the violation or require corrective action and for any other relief the court finds proper. Initiating an action shall not relieve any party to the proceedings from any penalty prescribed by this Article. (1997-358, s. 2.)

§ 87-99. Reserved for future codification purposes.