

North Carolina Board for Licensing of Geologists NEWSLETTER

Fall 2009 • P.O. Box 41225 • Raleigh, North Carolina 27629 • 919-850-9669 • nclbg@bellsouth.net

Rules of Professional Conduct

The Licensing Board reminds each licensee that it is his/her responsibility to read, understand, and follow the Rules of Professional Conduct for Geologists. These rules are presented in section 0.1100 of 21 NCAC 21 and can be accessed through the NCLBG website. The Board has also decided to print the Rules in their entirety in installments in four consecutive newsletters.

In this first installment, sections .1101 (a), (b), and (c) are presented. Section (a) charges each licensee to be knowledgeable of the Rules of professional conduct. Section (b) charges each licensee to conduct his/her practice so to protect the public health, safety, and welfare. Section (c) charges each licensee to perform his/her services only in areas of competence. Each section is presented in its entirety below.

21 NCAC 21 .1101 RULES OF PROFESSIONAL CONDUCT

(a) In order to safeguard the life, health, property and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the profession of geology, these rules of professional conduct shall be binding upon every person holding a certificate of license as a geologist, and on all partnerships or corporations or other legal entities authorized to offer or perform geologic services in this state. All persons licensed or registered under the provisions of G.S. 89E are charged with having knowledge of the existence of these Rules of professional conduct.

(b) The geologist shall conduct his practice in order to protect the public health, safety, and welfare.

1. The geologist shall at all times recognize his primary obligation to protect the safety, health, and welfare of the public in the performance of his professional duties. If his geologic judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, he shall inform his employer of the possible consequences and notify other proper authority of the situation, as may be appropriate.

2. The geologist shall protect the public health, safety, and welfare by maintaining sufficient personal on-site involvement and continual direction and review of the activities of subordinates that constitute public practice of geology while such activities are in progress. The licensee must provide such supervision and have sufficient knowledge of the project and site conditions necessary to assure accuracy and compliance with all applicable laws and regulations (including, but not limited to, G.S. 89E and the rules of this Chapter).

(c) The geologist shall perform his services only in areas of his competence:

1. The geologist shall undertake to perform geologic assignments only when qualified by education or experience in the specific technical field of geology involved.

2. The geologist may accept an assignment requiring education or experience outside of his own field of competence, but only to the extent that his services are restricted to those phases of the project in which he is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.

3. The geologist shall not affix his signature and seal to any document dealing with subject matter for which he lacks competence by virtue of education or experience or to any such plan or document not prepared under his direct supervisory control, except that the geologist may affix his seal and signature to drawings and documents depicting the work of two or more professionals provided he designates by note under his seal the specific subject matter for which he is responsible.

Chairman's Message

The NC Board for Licensing of Geologists has been busy, and there have been quite a few changes since our last Newsletter. We have added several new Board Members, and you can read about them herein. Bill Lyke is the most recent Board Member to "age" off of the Board, but we didn't let him get too far away. Bill agreed to spearhead the Newsletter, and we owe him a big "Thank You" for his efforts to get this edition to press! Our goal is to get back on track with regular Newsletters, and we can use your assistance - please send us any noteworthy items, along with any significant issues worthy of discussion for possible inclusion in the Newsletter. For example, write to us and tell us some of the reasons that you became a geologist - was it a particular course that you completed, or did you read a book that peaked your interest in the discipline. We would love to hear from you.

A significant portion of the efforts of our Board Members have been the evaluation of complaints by various individuals and organizations against both properly licensed and unlicensed individuals. My opinion is that most of the complaints involve either unlicensed practice, or practice by licensed Geologists working outside of their area(s) of expertise. We have dealt with a significant number of such complaints during the past two years, but I am happy to report that the number of complaints has significantly decreased during the past year. Geological Licensure plays a vital role in the protection of the health, welfare, and safety of the citizens of North Carolina, and the Board takes quite seriously any complaints that are presented for our review. I think that it is very important for Geologists to practice within their area of competence, established by a reasonable combination of education and experience.

On a personal note, this is my last year as a member of the NC Board for Licensing of Geologists. The six-year commitment has passed way too quickly! I plan, however, to remain very involved with ASBOG, the National Association of State Boards of Geology. I currently serve as

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Steve Conrad (left) receiving the Order of the Long Leaf Pine at Southeastern GSA meeting from Jim Simons (center) and Kenneth Taylor.

Former Board Member Honored

Steve Conrad, State Geologist from 1964-1990 and one of the original members of the Board for Licensing of Geologists, was honored at a symposium at the Southeastern Geological Society of America (GSA) meeting in Charlotte on April 10, 2008. The speakers included former licensing board members John Callahan and Neil Gilbert, current State Geologist Jim Simons, Kenneth Taylor, Carl Mersch, and Jeff Reid.

During his long tenure, Mr. Conrad greatly expanded geological and topographic mapping in the state, helped to establish the state mine reclamation and sedimentation control regulatory programs, served on the first licensing board, and held many offices in professional societies. At the end of the symposium, Jim Simons presented to Mr. Conrad on behalf of Governor Easley the Order of the Long Leaf Pine Award – the highest civilian award given by the Governor.

Dates of Interest

Board Meetings

November 12, 2009
 January 7, 2010
 April 22, 2010
 August 12, 2010
 November 18, 2010

All meetings of the Board will be held at the Board office, located at 3733 Benson Drive, Raleigh NC 27609.

ASBOG Exam

October 2, 2009
 March 5, 2010
 October 1, 2010

Each section of the ASBOG exam will be held at the Jane S. McKimmon Center, located at 1101 Gorman Street, Raleigh NC 27606.

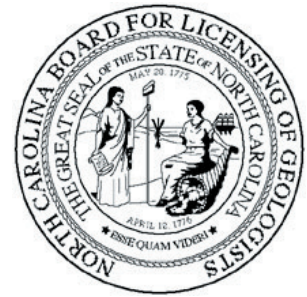
New Board

Members

The NC Board for Licensing of Geologists is pleased to recognize their newest members: K.O. Randel and Lindsey Walata.

K.O. Randel, public member, hails from Sneads Ferry, NC and is retired from the US Marine Corps. K.O. is serving the last year of his first three-year term on the Board.

Lindsey Walata, L.G., company geologist member, is employed by GlaxoSmithKline in Research Triangle Park NC. She lives in Carboro with her husband and three daughters. Lindsey joined the Board on July 1, 2009.



North Carolina Board for Licensing of Geologists

Richard Spruill, Chair
 Term expires June 30, 2010
 Academic Geologist

Ann Borden, Vice Chair
 Term expires June 30, 2011
 Independent Geologist

James Simons, Secretary-Treasurer
 Serves Ex-Officio
 State Geologist

Dennis LaPoint, Member
 Term expires June 30, 2011
 Mining Geologist

Lindsey Walata, Member
 Term expires June 30, 2012
 Company Geologist

K.O. Randel, Member
 Term expires June 30, 2010
 Public Member

Jennie Hauser, Legal Counsel

Robert M. Upton, Administrator

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Brief History of the Geology Licensing Law in North Carolina

The following information was edited by Jim Simons from a presentation honoring former State Geologist Steven G. Conrad at the Southeastern Geological Society meeting at Charlotte on April 10, 2008. The presentation was prepared by Neil Gilbert, PG and given by Dr. John Callahan, PG, both of whom, along with Mr. Conrad, were on the first North Carolina Board for the Licensing of Geologists.

Prior to the enactment of the Geologist Licensing Act (General Statutes Chapter 89E), it was a matter of "buyer beware" in purchasing professional geological services. The increasing emphasis on subsurface contamination, especially with underground storage tanks, brought a new demand for geological consulting. Many clients did not know how to check credentials of prospective consultants, and claims that inadequate professional geological consulting was posing a danger to the public health were increasing.

A core group of long-standing professional geologists in the state started meeting to map out a strategy to enact a law requiring professional registration for geologists.

The purposes of the act would be to:

Protect Life, Property, Health and Public Welfare

Establish Minimum Professional Standards of

Ethical Conduct
Professional Responsibility
Education and Experience

Halt Abuses by Untrained Individuals

Benefit Public Welfare in matters of:

Mineral Exploration and Development
Waste Disposal Siting
Ground Water Management
Geologic Hazards Evaluation
Geochemical Effects of Land Disturbance
Dam Safety
Threats to the State's Groundwater Resources
Faults or Seismic Zones at Critical Facilities

Prevent Unethical/Criminal Practices

Leases/Stocks for Mineral Resources

Scare Tactics for Personal Gain
Unqualified Individuals Posing as Geologists
Unethical/Unqualified Geologists

Level the Playing Field with Other States

Establish Legal Credibility

The following is a brief chronology of the Geologists Licensing Act: 1975-1976:

- Geologists Licensing Act drafted by members of AIPG, GSA, AEG, AIME, and AAPG;
- 1976 Draft Act Endorsed by Executive Committees of Active North Carolina Geological Organizations;
- 1977 NC Legislature Passes "Sunset Act" Including a moratorium on new boards;
- 1981 Sunset Act repealed;
- 1982 Inter-Society Committee formed, Chaired by Charles Gardner, with Ron Coble, H.F. (Fritz) Koch and Chuck Welby; 28 Members of AIPG, GSA, AEG, AIME and AAPG met in Raleigh and voted to pursue ratification of The Geologists Licensing Act in the 1983 legislative session. Norm Tilford, President of the Carolinas Section of AIPG, agreed to serve as general chairman of the several committees that would be required. A subcommittee of the Inter-Society Committee, Chaired by Charles Gardner, with Ron Coble, H.F. (Fritz) Koch and Chuck Welby, solicited input from all known geologists in the state. The solicitation included a copy of the 1976 Draft Act and a questionnaire. The 1976 Draft Act was edited based in part on responses from the solicitation. Contributions from the geologic community were received to support the legislative effort. Steering committees were formed to promote the legislation.
- 1983 As new President of the Carolinas Section of AIPG, George Bain took the lead role as sponsor of the legislation. The Inter-Society Committee contracted with Sam Johnson of the law firm of Johnson, Gamble & Shearon. All engineering organizations were appraised of the proposed Geologists Licensing Act. George Bain promoted the proposed Act to the legislature Senate Bill # 555. The North Carolina Geologists Licensing Act, Passes.

• 1984 The Geologists Licensing Act Passes the North Carolina House. The Geologists Licensing Act was signed by Governor Hunt and became law. State Geologist, Steve Conrad, requests nominations from the geological community for the first licensing board.

• 1985 Governor Martin appoints the six members of the initial board, consisting of:

Academic Geologist
Representative from the Mining Industry
Independent/Consulting Geologist
Salaried Company Geologist
Consumer/Lay Member
State Geologist (Ex Officio)

The Licensing Board had staggered three-year terms. A grandfathering period for licensing from August 15, 1985 to August 15, 1986 was allowed. Board was not funded by the state and not allowed to borrow money.

The first Board promulgated the rules and the Code of Professional Conduct. Jack Smith was hired as the first administrator. About 1,000 applications for licensing were initially reviewed. The Board also developed the first licensing examination which was given twice per year beginning April 1987. North Carolina later became one of seven original members of the Association of State Board of Geology (ASBOG). The first national exam from ASBOG was given in 1994. Since 1992, Upton Associates has been the Administrator for the Board.

Enforcement of the Act began in 1986. Since then, 91 complaints have been considered, of which:

27 Dismissed or No Action
22 Cease & Desist/Referred to Attorney General
37 Caution or Reprimand
3 Suspensions
2 Revocations

State Legislation Enacted in 2009 of Interest to Geologists

The 2009 session of the General Assembly was dominated by efforts to balance the state budget. Nevertheless, a surprising number of bills were introduced and passed, including at least 40 environmental bills. Because so many of the North Carolina licensed geologists are involved in environmental work, listed below is short summary of the bills that may be of interest to licensed geologists. This summary was edited from a list compiled by Elizabeth Biser, Legislative Liaison for the North Carolina Department of Environment and Natural Resources. If you have any questions concerning this legislation, contact the administrating agency or Jim Simons, State Geologist.

Water Quality

SB 687 Exempt Plumbing Contractor/Well Contractor Requirements: Provides an exemption from Well Contractor Certification Requirements for plumbers who have completed a continuing education course that covered well seal installation within the previous two years.

SB 755 Promote Private Mitigation Banks: Requires that private applicants needing environmental mitigation for their development projects must first seek mitigation from an approved mitigation bank, before seeking mitigation from the Ecosystem Enhancement Program (EEP). The bill does not apply to government entities, including the Department of Transportation. The bill also requires EEP to study the ramifications of this legislation on EEP's ability to recoup investments made in mitigation projects.

SB 1020 Improve Upper Neuse River Basin Water Quality: The bill extends the deadline for the Environmental Management Commission to adopt rules to address pollution in Falls Lake (which is the Raleigh water supply), but also requires that temporary rules be adopted concurrently with the permanent rules. Adoption of temporary rules will allow controls on nutrients that are causing water quality problems in Falls Lake to go into effect sooner. The bill directs the EMC to give credit for early implementation of measures to protect Falls Lake. The bill also strengthens erosion control requirements for development activities in the Falls Lake watershed to reduce sedimentation impacts on the Raleigh water intake in Falls Lake.

Coastal Management

HB 709 Address Erosion Control Issues: Imposes a 14-month moratorium on actions by the Coastal Resources Commission (CRC) to remove sandbag structures in communities actively pursuing beach renourishment projects. It also directs the CRC to study the feasibility and advisability of using terminal groins for shoreline stabilization.

HB 1388 Brownfields Property Notifications: Expands the public notice requirements regarding a prospective developer's intent to redevelop a contaminated property. Changes include notifying contiguous property owners of the Notice of Intent to redevelop a brownfields property.

SB 700 Dry Cleaning Solvent Cleanup Act Amends: Extends the sunset dates on the dry cleaning sales tax, dry cleaning solvent tax and the Dry Cleaning Solvent Cleanup Program and makes other program adjustments. The Dry Cleaning Solvent Cleanup Program was established in order to address contamination at dry cleaning sites.

SB 1004 Amend Certain Electricity Generation Laws:

- Requires expedited review by the N.C. Utilities Commission of a proposal by certain electric utilities to replace an existing coal-fired unit with a unit powered by natural gas for purposes of complying with the Clean Smokestacks Act

- Allows an electric utility that purchases or builds an energy facility that does not emit carbon dioxide (a facility powered by wind, wave or solar power, for example) to retain a portion of the fuel-related cost savings that result from replacing an existing generating facility powered by fossil fuel with the "carbon offset" energy facility

- Requires state inspection of dams associated with electric power generation facilities. The bill removes the exemption from the state Dam Safety Act that had previously applied to dams associated with an electric generating facility regulated by the N.C. Utilities Commission. The practical effect is to require state inspection of dams associated with coal ash impoundments and other small dams owned by the electric utilities. (Dams regulated by the Nuclear Regulatory Commission or by the Federal Energy Regulatory Commission, such as the large hydropower dams, continue to be

exempt from the state law.)

Open Space

SB 89 Authorize Grandfather Mountain as State Park: Adds Grandfather Mountain State Park to the state park system.

SB 600 Condemnation of Conservation Easements: Requires a demonstration of lack of prudent and feasible alternative in order for public condemners to condemn property encumbered in a conservation easement.

SB 968 Mountain Resources Planning: Establishes a permanent Mountain Resources Planning Commission, which is administratively housed within DENR. The Commission will consider a variety of issues, including:

- Identify and evaluate issues affecting important mountain resources
- Coordinate with existing local and regional efforts to address threats to important mountain resources
- Provide a forum for discussion of issues affecting important mountain resources
- Promote communication and education among stakeholders within the mountain region of Western North Carolina
- Collect research and information from North Carolina and other states and jurisdictions regarding State and regional approaches to coordinating provision of infrastructure and efforts to encourage quality growth
- Provide guidance to local, State and federal legislative and administrative bodies and to others as it considers necessary and appropriate for the use, stewardship, and enhancement of mountain resources.

Water Supply

HB 1399 Capacity Use Areas Enforcement: Raises the maximum penalty for violation of capacity use area laws to \$1,000.00 per day.

Environmental Health

SB 141 Limit Well Water Testing for VOC's: Requires the Commission for Public Health to adopt rules concerning when testing for volatile organic compounds in newly constructed private drinking water wells is required (within 30 days of completion of water well), and to limit drinking water testing for the presence of volatile organic compounds in accordance with those rules.

The Commission for Public Health shall incor-

State Legislation of Interest, continued

porate the following factors:

- known current and historic land uses around well sites and associated contaminants;
- known contaminated sites within a given radius of a well and any known data regarding rates of contamination, geology, and other relevant factors;
- any GIS based information on known contamination sources from databases available to the Department of Environment and Natural Resources; and
- visual on-site inspections of well sites.

Miscellaneous

SB 568 File Lis Pendens for Certain Erosion Actions: Requires the filing of Notice of Pending Litigation for actions seeking injunctive relief regarding sedimentation and erosion control for any land-disturbing activity that is subject to the Sedimentation Pollution Control Act of 1973.

SB 831 Extend Certain Development Approvals: Extends the term of certain government approvals affecting the development of real property within the State. The bill affects both local government and state approvals and extends those authorizations until the end of 2010. The practical effect is to continue the approvals without requiring the permit holder to request a renewal. The legislation has a retroactive effect by extending the term of approvals that have expired since January 1, 2008.

Note: HB 1490 (Land Development Permit Changes) makes technical changes to the provisions in SB 831 and adds a new provision governing water and sewer allocations associated with development permits extended under that law.

SB 835 Extend Climate Change Commission: Extends the Legislative Commission on Global Climate Change to October 1, 2010.

HB 945 The Studies Act of 2009: Provides that the Environmental Review Commission may study the following:

- Issues related to the use of intrabasin and interbasin netting;
- Water allocation issues;
- Consolidating state environmental boards and commissions;
- Environmental impacts of cement plants;
- Expanding alternative energy use by state

government;

- Sustainable growth through 2050;
- Green School Construction Loan Fund;
- Disclosure of coastal hazards;
- Phase out of lagoon and sprayfield systems;
- Phase out of Polybrominated Diphenyl Ethers (PBDEs);
- Pesticide laws for workers;
- Recycling of products containing mercury;
- Ordinances banning clotheslines;
- Green building code;
- Environmental documents prepared pursuant to SEPA;
- Use and storage of reclaimed water;
- Remediation of industrial and commercial site contamination; and
- Reducing diesel emissions.

SB 202 Appropriations Act of 2009: The annual budget bill also contained some provisions directing DENR actions, including:

- A report on DENR fees in odd numbered years;
- A study of eliminating or consolidating environmental commissions and boards;
- A study of transferring the Grade A milk program to the Department of Agriculture and Consumer Services;
- A study of DENR special funds;
- An increase in fees for food and lodging inspections;
- Changes to Radiation Protection fees;
- Changes to the distribution of Scrap Tire tax proceeds;
- Raises the cap on voluntary actions at inactive hazardous sites;
- Establishes a new lease purchase/installment contracts for forestry; and
- A study on charging parking fees at state parks

Update your Record

From the rules of the Geology Board, Chapter 21 NCAC 21 .0203

“Every individual licensee has the continuing responsibility of keeping the Board currently advised of the licensee’s proper and current mailing address and the name or names under which the licensee is practicing.”

Please check the information on your address at the Board’s website at ncblg.org. Send changes to ncblg@bellsouth.net. Changes may also be made via fax to 919/872-1598.

Chairman’s Message, cont’d.

Chairman of the Examinations Committee, and I am the Treasurer for the Executive Committee. My involvement in both of these organizations has been a highlight of my Geological career, and I am appreciative of the opportunities afforded me by my NC Board membership. Please take the time to read my short synopsis of ongoing activities related to ASBOG, especially the section on the Task Analysis Survey.

ASBOG Report

North Carolina is a Member Board State of the National Association of State Boards of Geology (ASBOG). For confidentiality reasons, we are not permitted to mention “names”, but some of our Board Members have been quite active in ASBOG activities. We have been well represented by Subject Matter Experts at the Council of Examiners Workshops held semi-annually, and we have always been represented at the Annual Meeting. Approximately every ten years, ASBOG completes a Task Analysis Survey (TAS) by developing, distributing, and evaluating the results of a questionnaire designed to evaluate the current status of the practice of Geology. The 2010 TAS questionnaires will be mailed to approximately 200 Geologists in each of the Member States during the months of October and November 2009. The recipients of the questionnaires are randomly selected from a master list compiled by each State Board Administrator.

The TAS Questionnaire is in “paper” format and it can be completed in less than 30 minutes. We hope to utilize a computer instrument for our next TAS, and we are doing trial run in Canada to evaluate the effectiveness of the computer instrument. The results of the TAS Questionnaire will be evaluated by our Psychometricians along with the TAS Committee, and the results of their analysis will guide the re-evaluation of the Test Blueprints for both of the ASBOG Examinations – the Fundamental of Geology Examination (FG) and the Practice of Geology Examination (PG).

If you receive a TAS Questionnaire later this fall, PLEASE take the time to complete the form and return it to ASBOG. This is your opportunity to have direct input with respect to the formulation of future examinations prepared by ASBOG. Our goal is a 100% return rate for questionnaires sent to Licensees in North Carolina. Thanks for helping with this important initiative!