



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
- Notice without a scheduled hearing
- Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: North Carolina On-Site Wastewater Contractors and Inspectors Certification Board

2. Link to agency website pursuant to G.S. 150B-19.1(c): www.ncowcicb.info

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

ADOPTION: 21 NCAC 39 .0103; .0802 - .0803; .0901 - .0903

READOPTION with substantive changes:

READOPTION without substantive changes:

AMENDMENT: 21 NCAC 39 .1005

REPEAL:

4. Proposed effective date: July 1, 2019

5. Is a public hearing planned? Yes No

If yes: Public Hearing date: January 31, 2019

Public Hearing time: 10:00 am

Public Hearing Location: Emeralds View, 1426 Peter Mabe Road, Danbury, NC 27016

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s):

- 21 NCAC 39 .0103 Establish process for filing reports and maintaining escrow account per G.S. 93B-2
- 21 NCAC 39 .0802 Notify certificate holders of responsibility to respond to Board inquiries
- 21 NCAC 39 .0803 Establish responsibility when work is delegated
- 21 NCAC 39 .0901 Establish process for rulemaking petitions
- 21 NCAC 39 .0902 Establish process for declaratory ruling requests
- 21 NCAC 39 .0903 Establish process when Board refuses to issue a declaratory ruling
- 21 NCAC 39 .1005 Amend rule to clarify inspections

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Connie S. Stephens

Address: NC On-Site Wastewater Contractors and Inspectors Certification Board
PO Box 132
Lawsonville, NC 27022

Phone (optional): 336-202-3126

Fax (optional):

E-Mail (optional): csstephens@ncowcicb.info

10. Comment Period Ends: March 18, 2019

11. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

- State funds affected
- Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact (≥\$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4
- No fiscal note required by G.S. 150B-21.3A(d)(2)

12. Rule-making Coordinator: Connie S. Stephens

Address: NC On-Site Wastewater Contractors and Inspectors Certification Board
PO Box 132
Lawsonville, NC 27022

Phone: 336-202-3126

E-Mail: csstephens@ncowcicb.info

Agency contact, if any:

Phone:

E-mail:

13. The Agency formally proposed the text of this rule(s) on
Date: December 14, 2018

14. Signature of Agency Head* or Rule-making Coordinator:



***If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Connie S. Stephens

Title: Rule-making Coordinator

1 21 NCAC 39 .0103 is proposed for adoption as follows:
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3 **21 NCAC 39 .0103 ANNUAL REPORTS**

4 (a) On or before October 31 of each year, the Board shall prepare and file reports required pursuant to G.S. 93B-2.

5 The Board shall file reports in the manner requested by receiving agency or committee.

6 (b) The Board shall maintain an escrow account at the financial institution used regularly for deposits and checks.

7 Fees tendered during a period of suspension under G.S. 93B-2(d) shall be deposited into this escrow account.
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9 *History Note: Authority G.S. 93B-2;*

10 *Eff. July 1, 2019.*

1 21 NCAC 39 .0802 is proposed for adoption as follows:

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3 **21 NCAC 39 .0802 COOPERATION WITH BOARD INQUIRY**

4 A certificate holder shall respond to any inquiry made by the Board within 21 days from the date the inquiry was
5 received by the certificate holder.

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7 *History Note: Authority G.S. 90A-74(6);*

8 *Eff. July 1, 2019.*

1 21 NCAC 39 .0803 is proposed for adoption as follows:

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3 **21 NCAC 39 .0803 DELEGATING TO THIRD-PARTY SERVICE PROVIDERS**

4 (a) If a certificate holder delegates service requested by a client to another certificate holder, he or she must give
5 notice to the client on or before the date of service that said work is being delegated to another certificate holder.

6 (b) The certificate holder who delegates service as indicated above shall be jointly and severably responsible for all
7 aspects of the service provided to the client.

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9 *History Note: Authority G.S. 90A-74(6);*

10 *Eff. July 1, 2019.*

1 21 NCAC 39 .0901 is proposed for adoption as follows:

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3 **21 NCAC 39 .0901 PETITION FOR RULE-MAKING**

4 Any person submitting a petition to adopt, amend, or repeal a rule by the Board shall address a petition to the
5 Chairman at the Board office as follows: Post Office Box 132, Lawsonville, North Carolina 27022.

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(1) The petition shall contain the following:

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(a) for petitions to adopt or amend a rule, a draft of the proposed rule or amendment;

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(b) a statement of the effect of the requested rule change; and

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(c) the name and address of the petitioner.

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(2) The petition may contain the following:

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(a) the reason for the proposal;

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(b) the effect of the new rule on existing rules; or

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(c) any data supporting the rule proposal.

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15 History Note: Authority G.S. 150B-20; 90A-74;

16 Eff. July 1, 2019.

1 21 NCAC 39 .0903 is proposed for adoption as follows:

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3 **21 NCAC 39 .0903 REFUSAL TO ISSUE DECLARATORY RULING**

4 The Board shall refuse to issue a declaratory ruling under the following circumstances:

5 (1) when the Board has issued a decision in a contested case with substantially similar facts;

6 (2) when the facts underlying the request for a ruling on a rule were considered at the time of the
7 adoption of the rule in question; or

8 (3) when the subject matter of the request is involved in pending litigation in North Carolina.

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10 *History Note: Authority G.S. 150B-4; 90A-74;*

11 *Eff. July 1, 2019.*

1 21 NCAC 39 .1005 is proposed for amendment as follows:

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3 **21 NCAC 39 .1005 ON-SITE WASTEWATER SYSTEM COMPONENTS**

4 (a) When inspecting an on-site wastewater system the inspector shall inspect and describe the following in a report
5 described in Rule .1002 of this Chapter:

- 6 (1) ~~Any~~ any part of the system located more than five feet from the primary structure that is part of the
7 operations permit;
- 8 (2) ~~Septic~~ septic tanks;
- 9 (3) ~~Pump~~ pump tanks;
- 10 (4) ~~Distribution~~ distribution devices;
- 11 (5) ~~Dispersal~~ dispersal fields;
- 12 (6) ~~Treatment~~ treatment units;
- 13 (7) ~~Control~~ control panels;
- 14 (8) ~~Any~~ any other components required as part of on-site wastewater system permit, including drainage;
15 and
- 16 (9) ~~Any~~ any vegetation and grading with respect only to their effect on the condition of the system or
17 system components.

18 (b) The inspector shall:

- 19 (1) ~~Uncover~~ uncover tank lids and distribution devices so as to gain access, unless blocked as described
20 in Rule .1004(b)(5) of this Section. The distribution box may remain covered if the inspector has an
21 alternate method of observing its condition;
- 22 (2) ~~Probe~~ probe system components where deterioration is suspected;
- 23 (3) ~~Report~~ report the methods used to inspect the on-site wastewater system;
- 24 (4) ~~Open~~ open readily accessible and readily openable components as defined in Rule .1001 of this
25 Chapter; and
- 26 (5) ~~Report~~ report signs of abnormal or harmful water entry into or out of the system or ~~components.~~
27 components; and
- 28 (6) conduct the inspection using the rules promulgated under Article 11 of Chapter 130A in effect at
29 the time of the initial construction or renovation of the system, whichever occurs later, and any
30 subsequent installation or replacement of any system or component of the system.

31 (c) The inspector is ~~shall~~ not be required to:

- 32 (1) ~~Conduct~~ conduct dosing volume calculations;
- 33 (2) ~~Evaluate~~ evaluate soil conditions beyond saturation or ponding;
- 34 (3) ~~Evaluate~~ evaluate for the presence or condition of buried fuel storage tanks;
- 35 (4) ~~Evaluate~~ evaluate the system for proper sizing, design, or use of ~~proper~~ approved materials pursuant
36 to Article 11 of Chapter 130A and the rules promulgated therefrom; or
- 37 (5) ~~Perform~~ perform a hydraulic load test on the system.

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*History Note: Authority G.S. 90A-72; 90A-74;
Eff. October 1, 2011;
Amended Eff. January 1, 2013; July 1, 2019;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9,
2018.*