



EMERGENCY RULE-MAKING FINDINGS OF NEED [G.S. 150B-21.1A]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: Onsite Wastewater Contractors and Inspectors Certification Board	
2. Rule citation(s): 21 NCAC 39 .0904	
3. Adoption by agency on: May 8, 2020	4. Date agency requests entry of emergency rule in the Code:
5. What is the need for an emergency rule? On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The COVID-19 is a respiratory disease that can result in serious illness or death. The COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. On March 12, 2020, the Governor of North Carolina and the NC Department of Health and Human Services recommended high risk persons stay at home, that schools implement plans for distance or e-learning, that employers and employees use teleworking technologies, and that mass gatherings should cancel, postpone, and modify these events or offer online streaming services. On March 14, 2020, the Governor of North Carolina issued Executive Order No. 117 that prohibited mass gatherings, closed schools, and urged social distancing.	
6. Has the agency provided the public with abbreviated notice? If so, describe. Yes, it has been posted on the homepage of www.ncowcicb.info and a notice was emailed to all interested persons on May 11, 2020.	
7. Why is adherence to notice and hearing requirements contrary to the public interest and that the immediate adoption of the rule required by a serious and unforeseen threat to the public health or safety? The public health threat posed by COVID-19 requires immediate action to limit mass gatherings, increase social distancing, and limit exposure of high risks individuals. It is in the public's interest to immediately adopt rules that limit the Board's regulated audience's exposure to COVID-19 and allow for relaxed requirements during the time of this public health emergency.	

[Emergency Rule-making Findings of Need Continued]

8. Does the agency have specific statutory authority for the adoption of an emergency rule? If so, has the agency met the statutory criteria for adoption? (attach copy of statutory authority) No

9. Has the agency submitted the proposed temporary rule for publication on the Internet in accordance with G.S. 150B-21.1(a3)?

- ☒ Yes
☐ No

10. Rule establishes or increases a fee? (See G.S. 12-3.1)

- ☐ Yes
Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

11. Rule-making Coordinator: Connie Stephens

Phone: 336-202-3126

E-Mail: csstephens@ncowcicb.info

Agency contact, if any:

Phone:

E-Mail:

12. Signature of Agency Head*:

* 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: William R. Davis

Title: Chairman

E-Mail: RussDavis613@gmail.com

REVIEW BY THE CODIFIER OF RULES

Approved. Entered into the North Carolina Administrative Code on: _____

Reviewed By: _____

Date: _____

Comments:

Statement does not meet the criteria.

Reviewed By: _____

Date: _____

Comments:

21 NCAC 39 .0904 is adopted under emergency procedures as follows:

21 NCAC 39 .0904 WAIVER OR EXTENSION

The Board may waive or extend any rule in this Chapter that is not statutorily required if a certificate holder submits a written request. The Board may also waive or extend any rule in 21 NCAC 39 that is not statutorily required upon its own initiative. Factors the Board shall use in determining whether to grant the waiver or extension are:

- (1) degree of disruption to the Board;
- (2) cost to the Board;
- (3) degree of benefit to the public;
- (4) whether the requesting party had control over the circumstances that required the requested waiver or extension;
- (5) notice to and opposition by the public;
- (6) need for the waiver or extension; and
- (7) previous requests for waivers or extensions submitted from the requesting party.

History Note: Authority G.S. 90A-74; 150B-19(6)



PROPOSED TEMPORARY RULE FOR PUBLICATION ON THE OAH WEBSITE

OFFICE USE ONLY

Published on the OAH
website:

CHECK APPROPRIATE BOX:

☐

Proposed Temporary Rule [G.S. 150B-21.1(a3)]

☒

Proposed Temporary Rule simultaneously adopted as an emergency rule [G.S. 150B-21.1A(a)]

1. Rule-Making Agency: Onsite Wastewater Contractors and Inspectors Certification Board

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

☒ ADOPTION: 21 NCAC 39 .0904

☐ AMENDMENT:

☐ REPEAL:

3. Public Hearing:

Date: June 3, 2020

Time: 10 a.m.

Location: Via Teleconference Meeting: Call in number – 712-770-4129; Access Code - 965543

4. Reason for agency adopting rule(s) under temporary action:

- ☒ A serious and unforeseen threat to the public health, safety or welfare.
☐ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite:
Effective date:
☐ A recent change in federal or state budgetary policy.
Effective date of change:
☐ A recent federal regulation.
Cite:
Effective date:
☐ A recent court order.
Cite order:
☐ Other:

Explain: On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The COVID-19 is a respiratory disease that can result in serious illness or death. The COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. On March 12, 2020, the Governor of North Carolina and the NC Department of Health and Human Services recommended high risk persons stay at home, that schools implement plans for distance or e-learning, that employers and employees use teleworking technologies, and that mass gatherings should cancel, postpone, and modify these events or offer online streaming services. On March 14, 2020, the Governor of North Carolina issued Executive Order No. 117 that prohibited mass gatherings, closed schools, and urged social distancing.

5. Comments from the public shall be directed to: Name: Connie Stephens Address: Onsite Wastewater Contractors and Inspectors Certification Board, PO Box 132, Lawsonville, NC 27022 Phone (optional): Fax (optional): E-Mail (optional):	
6. Comment Period Starts: May 20, 2020	Comment Period Ends: June 11, 2020
7. Rule-making Coordinator: Name: Connie Stephens Phone: 336-202-3126 E-Mail: csstephens@ncowcicb.info Agency contact, if any: Name: Phone: E-mail:	8. Signature of Agency Head* or Rule-making Coordinator: <hr/> Typed Name: William R. Davis Title: Chairman <i>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</i>

21 NCAC 39 .0904 is proposed for adoption under temporary procedures as follows:

21 NCAC 39 .0904 WAIVER OR EXTENSION

The Board may waive or extend any rule in this Chapter that is not statutorily required if a certificate holder submits a written request. The Board may also waive or extend any rule in 21 NCAC 39 that is not statutorily required upon its own initiative. Factors the Board shall use in determining whether to grant the waiver or extension are:

- (1) degree of disruption to the Board;
- (2) cost to the Board;
- (3) degree of benefit to the public;
- (4) whether the requesting party had control over the circumstances that required the requested waiver or extension;
- (5) notice to and opposition by the public;
- (6) need for the waiver or extension; and
- (7) previous requests for waivers or extensions submitted from the requesting party.

History Note: Authority G.S. 90A-74; 150B-19(6)