

NCOWCICB  
BOARD MEETING AGENDA AND APPROVED MINUTES  
December 13, 2019 8:30 a.m.  
LOCATION: Hilton Garden Inn Raleigh Durham Airport  
1500 RDU Center Drive Morrisville NC 27560

8:30 a.m. CALL TO ORDER: RUSS DAVIS  
OPENING PRAYER: JERRY PEARCE  
ROLL CALL: ALL PRESENT  
READING OF ETHICS STATEMENT  
ETHICS STATEMENT: In accordance with the State Government Ethics Act, it is the duty of every [Board] member to avoid both conflicts of interest and appearances of conflict. Does any [Board] member have any known conflict of interest or appearance of conflict with respect to any matters coming before the [Board] today? If so, please identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved. DIANA RASHASH NCSU CLASSES, JERRY PEARCE AND CHRIS DOBBINS NCSTA CLASSES

8:35 a.m. RECOGNITION OF ANY ATTENDING PUBLIC AND REQUEST TO ADDRESS BOARD (PLEASE NOTE: PUBLIC MAY ADDRESS THE BOARD DURING THIS SECTION OF BOARD MEETING. BOARD WILL NOT RESPOND TO COMMENTS OR REQUEST MADE BY PUBLIC. REQUEST MADE BY PUBLIC DURING THIS SESSION WILL BE PLACED ON A FUTURE BOARD AGENDA FOR DISCUSSION. PUBLIC WILL BE ALLOWED MAXIMUM OF FIVE (5) MINUTES PER PERSON TO ADDRESS BOARD. PUBLIC WILL NOT BE ALLOWED COMMENT FOR REMAINDER OF BOARD MEETING.

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Public in attendance at meeting: DOUG LASSITER, NCSTA AND JONI TANNER  
NCSU SOIL SCIENCE

8:35 a.m. Approval of Minutes from May 10, 2019 meeting (see minutes attached) MOTION TO APPROVE MOTION TO APPROVE DIANA RASHASH, 2<sup>ND</sup> JERRY PEARCE APPROVED

8:40 a.m. Update from Administrator:

- The annual audit for fiscal year ending June 30, 2019 has been completed and all is well
- Renewals received to date are on target with last year
- 7 new installer classes were held in 2019 and each class was full. It looks like this trend will continue for 2020
- Year end is quickly approaching, REMEMBER to file your SEI. Every Board member must file and the absolute deadline for filing is April 15, 2020. You can file early so mark your calendars and file in January. The majority of you will be able to use the short form. For filing info go to:  
<https://ethics.ncsbe.gov/sei/blankForm.aspx>
- REMINDER Any Board member that has not taken the required Ethics training should do so immediately. Once you have taken the course please send me a copy of the completion certificate. Information for required Ethics training for Board members can be found at <https://www.ncsbe.gov/Ethics/Education>
- The following is what the Ethics Commission records show regarding the Board member's Ethics Training as of 12/05/19:

Board Member	Last Date Rcvd	Next Due Date
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Russ Davis	1/10/18	1/10/20
Russ Ayers	12/5/19	12/5/21
Jerry Pearce	10/12/19	10/12/21
Diana Rashash	10/11/19	10/11/21
Glenn Hines	4/15/18	4/15/20
Michael Robinson	11/14/18	11/14/20
Walter James	12/11/18	12/11/20
Chris Dobbins	03/03/19	03/03/21
David Swinney	2/20/18	2/20/20
Connie Stephens(EL)	4/30/19	04/30/21

- Class Approval Request:

- Approval Request:

- NCSU: Approval request for reapproval for all courses offered in 2019

- Approval request for Onsite Conference

- Motion to approve JERRY PEARCE, 2<sup>ND</sup> WALTER JAMES, APPROVED

- NCSTA: Approval request for reapproval for all courses offered in 2019

- Approval request for 30<sup>th</sup> Annual Convention & Expo

- Reapproval request for Hands on Training Courses

- Motion to approve: DIANA RASHASH, 2<sup>ND</sup> RUSS AYERS, APPROVED

- Granville Vance: Approval request for reapproval for course offered in 2019

- Motion to approve DAVID SWINNEY, 2<sup>ND</sup> JERRY PEARCE, APPROVED

- NCSSS: Approval request for reapproval for course offered in 2019

- Motion to approved: CHRIS DOBBINS, 2<sup>ND</sup> JERRY PEARCE, APPROVED

- Jackson County: Approval request for reapproval for course offered in 2019

- Motion to approve: DIANA RASHASH, 2<sup>ND</sup> RUSS AYERS, APPROVED

- Chatham County: Approval request for reapproval for course offered in 2019

- Motion to approve: DIANA RASHASH, 2<sup>ND</sup> RUSS AYERS, APPROVED

- Orange County: Approval request for reapproval for course offered in prior year

- Motion to approve: DIANA RASHASH, 2<sup>ND</sup> RUSS AYERS, APPROVED

Note about environmental health classes: At the December meeting the Board decided to put on the approval for class offered by LEH that while NCOWCICB has no authority over the LEH there is concern when the LEH is closed for the day of the classes. This statement was placed on the

approval. We are still having this issue and receiving calls from installers complaining about this. There were several calls received about one particular class in that the county holding the class was closed for inspections and several of the surrounding counties were closed for inspections on the day of this class.

DAVID SWINNEY MADE MOTION TO SEND LETTER TO HEALTH DIRECTOR ANNA WILL WRITE LETTER AND WILL ALSO PLACE ON LIST SERVE AND ADD DETAILS OF COUNTY CANNOT MANDATE THAT PERSON ATTEND THEIR CLASS, 2<sup>ND</sup> WALTER JAMES, APPROVED

9:00 a.m. Treasurer's Report by Jerry Pearce, Treasurer  
Financial Report as of October 31, 2019

Monies on hand:

Capital Bank Operating Account	\$156,156.44
Select Bank*	\$242,259.59
Bank of Oak Ridge*	\$232,875.83
Sound Bank*	\$215,525.49
North State Bank*	\$230,376.33
First National*	<u>\$204,349.57</u>
Total Monies on hand	\$1,281,543.25

(\*CD held for future enforcement)

See detailed YTD Financial Report Attached

PRESENTED BY JERRY PEARCE, MOTION TO APPROVE WALTER JAMES, 2<sup>ND</sup> DIANA RASHASH, APPROVED

9:10 a.m. Board shall enter Closed Session for discussion of complaints received, MOTION DIANA RASHASH, 2<sup>ND</sup> JERRY PEARCE, BOARD IS IN EXECUTIVE SESSION

10:00 a.m. Board shall re-enter regular session  
MOTION TO GO INTO REGULAR SESSION JERRY PEARCE, 2<sup>ND</sup> WALTER JAMES, BOARD IS NOW IN REGULAR SESSION

THE FOLLOWING COMPLAINTS WERE DISCUSSED IN CLOSED SESSION:  
COMPLAINTS REVIEWED AND DECISIONS BY BOARD LISTED UNDER EACH COMPLAINT

Complaint 0111141901: Repair without permit, MOTION TO REVOKE, DIANA RASHASH, 2<sup>ND</sup> JERRY PEARCE, WITH ANNA TO WRITE LETTER OF REVOCATION INCLUDING DENIAL OF APPLICATION FOR CERTIFICATION AS INSPECTOR, APPROVED

Complaint 9241901: improper installation, MOTION MADE BY RUSS AYERS FOR STAYED SUSPENSION FOR 12 MONTHS, NO LATER THAN 5/1/2020 HE MUST COMPLETE THE 18 HOUR COURSE, WHEN WRITING SUSPENSION DO COVER LETTER WHICH INCLUDES ETHICS SECTION IN EFFORT TO MAKE PROPERTY OWNER WHOLE AGAIN, 2<sup>ND</sup> WALTER JAMES, APPROVED DAVID SWINNEY RECUSED HIMSELF FROM DISCUSSION AND VOTE

Complaint 07231901: Inspection by LEH not performed , DAVID SWINNEY MADE MOTION TO DISMISS COMPLAINT AS NOT BEING PROVEN, ANNA WILL WRITE LETTER, 2<sup>ND</sup> JERRY PEARCE, APPROVED

Complaint 05301901: incomplete inspection, DAVID SWINNEY AND GLENN HINES RECUSED THEMSELVES FROM DISCUSSION AND VOTE ON THIS COMPLAINT, MOTION BY DIANA RASHASH TO SEND ADMISSION OF GUILT AND PROVIDE BOARD WITH COPIES OF INSPECTIONS PERFORMED FOR NEXT 12 MONTHS, 2<sup>ND</sup> CHRIS DOBBINS, APPROVED

Complaint 06191901: Incomplete inspection, DAVID SWINNEY MADE MOTION TO DISMISS WITH NOTE TO REVIEW REQUIREMENTS FOR INSPECTIONS, 2<sup>ND</sup> GLENN HINES, APPROVED

Update on Complaint number 05031901: Complaint reviewed at last meeting. Investigation showed that install had not been done and refund has not been issued. Revocation process will move forward.

Paid for installation hasn't installed, 2<sup>ND</sup> OFFENSE OF SAME NATURE, ORDER INVESTIGATION IF SHOWS SAME AS COMPLAINT REVOKE CERTIFICATION, MOTION GLENN, 2<sup>ND</sup> DAVID

Update Complaint number 04041901: Complaint reviewed at last meeting. Investigation did not show conclusively that the Installer did the work, homeowner says he did, installers says he did not, paid installer in cash without a receipt. Decision from last meeting: SECOND OFFENSE OF SAME NATURE, REVOCATE CERTIFICATION, MOTION DIANA, 2<sup>ND</sup> WALTER, APPROVED, MOTION BY DIANA RASHASH TO PROCEED WITH REVOCATION, 2<sup>ND</sup> GLENN HINES, APPROVED

Update Complaint Number 03131901: Complaint reviewed at last meeting. Suspension letter was sent to Inspector. They responded with letter stating person who signed the Inspection in question does not work for them. The only work they did for client was to pump the tank which they have not been paid for. The Inspector did retake the Inspector class Incomplete inspection. This was a first offense and we may want to lift the Stay as the Inspector has repeated the class again. I have spent some time with the Inspector after class and they positively state that the person who signed the incomplete inspection does not work for them. STAY SUSPENSION 12 months, MUST TAKE CLASS, AND SEND IN REPORTS, MOTION DAVID, 2<sup>ND</sup> MIKE, APPROVED, MOTION TO LIFT THE STAY AND CONCLUDE THE COMPLAINT AS DISCIPLINARY ACTIONS COMPLETED MADE BY RUSS AYERS, 2<sup>ND</sup> CHRIS DOBBINS, APPROVED

10:41 a.m.

Russ Davis asked Doug Lassiter to give brief update on Task Force meetings. Jerry Pearce is NCOWCICB representative on Task Force. First met in September. Jerry stated a lot has been accomplished. Have had several meetings. There is a lot of experience on the Task Force and he feels that more has been done in three months than has happened in last 12 years of trying to rewrite the onsite rules. There have been extensive discussions on all topics. They are currently working on setbacks, tanks, etc. It is a difficult task to bring all parties together and find middle ground so that agreement can happen. Doug Lassiter represents NCSTA on the Task Force he stated that agrees with Jerry that they have accomplished a lot in this small time frame. There is a time constraint and hopefully they will meet the deadline. This Task Force is a recommendation only in what the rules should say. He is glad that this opportunity to have this amount of input into this section of rules. The deadline is 2/1/2020. They have only had 121 days to get this done. Diana asked best case scenario what is time frame for new rules because

this directly affects the exams we give. Doug's response was that it will be awhile before these rules are in affect. The commission doesn't meet often. Anna stated they don't have temporary rules. David Swinney asked would it be at least 12/2020? Doug stated that if recommendations aren't complete the 18E becomes effective 2/1/2020, if they accept recommendations then the process for rule making kicks in. Russ Davis represents General Contractors on Task Force when asked if the rules will be shortened he stated that the Task Force has worked to clarify rules and that in doing so it didn't shorten it. Jerry stated that the Task Force is fortunate to have Russ Davis chair the committee and he has done a great job. David Swinney stated he has heard that the meetings run extremely well and efficiently. Russ stated that the Task Force is made up of all interested parties in the industry.

10:55 a.m. Review and discussion of NCOWCICB Rules Committee proposed evaluator rules. The Rules Committee met on November 11<sup>th</sup> and put together proposed rules for the new NCOWCICB certification of evaluators. The proposal is attached and open for input from the Board. This is a working document and is not being voted on today to move forward with the adoption process. Once the document has the approval of the majority of the Board we will go to RRC for preview of proposal. After that review and possible recommended revisions, the Board will need to meet again to move forward with the process.

MUCH DISCUSSION HELD AND PROPOSAL REVIEWED IN DETAIL, ANNA WILL TAKE THE REVISED EDITON TO RRC FOR PREVIEW PRIOR TO ADOPTION BY BOARD, A CALL MEETING WILL BE HELD ONCE THE PREVIEW IS COMPLETED

ANNA STATED THAT IF ITEM IS CONTAINED IN G.S. WE DO NOT REPEAT IT IN RULES. THIS INFORMATION CAN BE CONVEYED TO CERTIFICATION HOLDERS BY A COMBING RULES AND G.S. IN MEMO

12:00 p.m. Next Board Meeting: The next scheduled meeting is May 8, 2020 9 a.m. in Raleigh, keep in mind the Board meetings have been set as second Friday in May and December. Once the proposed rules have been reviewed by RRC there will most likely be a called meeting prior to the set date in May

Election of officers: Motion by Chris Dobbins to keep Russ Davis as Chairman, Russ Ayers as Vice Chairman, and Jerry Pearce as Treasurer, 2<sup>nd</sup> Walter James, motion approved

Meeting Adjourn MOTION Jerry Pearce, 2<sup>nd</sup> Russ Ayers, MEETING ADJOURNED

NCOWCICB Financial Report as of October 31, 2019

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First National*	<u>\$204,349.57</u>
Total Monies on hand	\$1,281,543.25
(*CD held for future enforcement)	

YTD Receipts\*\*

Fees Received	\$ 32,182
Interest Income	<u>\$ 4,505</u>
Total Receipts	\$ 36,687

YTD Expenditures\*\*

Postage	\$ 1,330
Printing	\$ 6,468
Travel – Board	\$ 0
Travel – Staff	\$ 1,346
Telephone	\$ 1,146
Misc Expense	\$ 112
Bank Charges	\$ 469
Accounting	\$ 16,360
Salaries	\$ 24,268
Payroll Taxes	\$ 1,931
Office Expense	\$ 340
Depreciation	\$ 212
Office Rent	\$ 2,000
Investigations	\$ 476
Hearing Expense	\$ 0
Meeting Expense	\$ 0
Web Expense	\$ 442
Legal Fees	<u>\$ 3,796</u>
Total Expenditures	\$ 60,696

(\*\*Fiscal year runs July 1 – June 30<sup>th</sup>)

# NCOWCICB WORKING DOCUMENT PROPOSED RULES TO INCLUDE EVALUTORS RULES

## CHAPTER 39 - ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD

### SECTION .0100 - DUTIES AND DEFINITIONS

#### 21 NCAC 39 .0101 DEFINITIONS

In addition to the terms defined in Article 5 of Chapter 90A of the General Statutes, the following definitions apply to the rules in this Chapter:

- (1) "Ancillary" means an on-site wastewater system that is included in a primary construction project.
- (2) "Authorized On-Site Wastewater Evaluator" as defined in G.S. 130A-336.2(a); hereafter referred to as "evaluator".
- ~~(2)~~(3) "Building being constructed" means primary construction of a site-built single-family residence.
- ~~(3)~~(4) "College course" means a semester unit or quarter unit-based instruction given at a college or university that is relevant to on-site wastewater contractor or inspector activities, and is pre-approved by the board as set out in Rule .0603 of this Chapter.
- ~~(4)~~(5) "Course or Activity" means any course or activity with a clear purpose and objective that will maintain, improve, or expand skills and knowledge relevant to the practice of on-site wastewater contractor or inspector activities and pre-approved by the board.
- (6) "Evaluation and findings" mean, at a minimum, the information required in G.S. 130A-335(e).
- (7) "Licensed soil scientist" means an individual licensed in accordance with G.S. 89F.
- (8) "Notice of Intent to Construct" means, at a minimum, that information required by G.S. 130A-336.2(b) and is provided as a form by the Department of Health and Human Services.
- ~~(5)~~(9) "Personally supervise" means to direct and control all on-site wastewater contractor or inspector activities during the time those activities are being conducted.
- ~~(6)~~(10) "Professional development hour" or "PDH" means an hour of instruction or presentation and is the basic unit of credit for all courses or activities related to satisfying continuing education requirements.
- ~~(7)~~(11) "Repair" means construction activity or alteration to an existing on-site wastewater system that is necessary to comply with a Construction Authorization for a repair permit issued by the Local Health Department or through the Authorized Onsite Wastewater Evaluator option.
- (12) "Seal" means the seal required by G.S. 130A-336.2(d)(2) for certified Authorized On-Site Wastewater Evaluator.
- (13) "Subordinate" means any person who assists a licensed soil scientist in the practice of soil science without assuming the responsible charge of work. (1995, c. 414, s. 1.)
- ~~(8)~~(14) "Wastewater Treatment Facility" as defined in G.S. 90A-71(8).

*History Note: Authority G.S. 89F-3; 90A-71; 90A-72; 90A-74; 130A-336.2  
Eff. February 1, 2011;  
Amended Eff. January 1, 2016; January 1, 2013.*

#### 21 NCAC 39 .0102 TYPES OF CERTIFICATION

(a) The following levels of certification for certified on-site wastewater contractors are:

Level	Description of Activities
I	Single Septic Tank, Conventional (Gravel) Gravity System
II	Grade I, plus: Multiple tanks, Grease Traps, Single Pump or Single Siphon, Fill Systems, Sand Lined Trench, and any approved gravity or single pump dispersal system not specified in Grade Level III or Grade Level IV
III	Grade II, plus: Dual pumps or Dual Siphons, Systems of >1500 gpd to <3000 gpd, Low-Pressure Dispersal, Flow Equalization, and any system requiring ground water lowering with a pump
IV	Grade III, plus:

Systems >3000 gpd, Multiple Off-Site Systems, Industrial Process Wastewater, Residential Wastewater Treatment Systems (RWTS), TS-I and TS-II System, Drip Dispersal Systems, and Wastewater Reuse Systems or any Pretreatment Component.
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(b) Inspectors shall be certified to inspect all grade levels of on-site wastewater systems referenced in Paragraph (a).

(c) Authorized On-site Wastewater Evaluators (evaluators) shall be certified to provide the evaluation and findings required by G.S. 130A-335(e), which contain, at a minimum, the:

- (1) Wastewater characteristics;
- (2) Design unit;
- (3) Design capacity;
- (4) Design volume;
- (5) Criteria for the design, installation, operation, maintenance and performance of wastewater collection, treatment, and disposal systems;
- (6) Soil morphology and drainage;
- (7) Topography and landscape position;
- (8) Depth to seasonally high water table, rock, and water-impeding formations;
- (9) Proximity to water supply wells, shellfish waters, estuaries, marshes, wetlands, areas subject to frequent flooding, streams, lakes, swamps and other bodies of surface or groundwaters;
- (10) Density of wastewater collection, treatment and disposal systems in a geographical area;
- (11) Requirements for issuance, suspension, and revocation of permits; and
- (12) Other factors that affect the effective operation and performance of wastewater collection, treatment, and disposal systems.

*History Note: Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2  
Eff. February 1, 2011.*

#### **21 NCAC 39 .0103 ANNUAL REPORTS**

(a) On or before October 31 of each year, the Board shall prepare and file reports required pursuant to G.S. 93B-2. The Board shall file reports in the manner requested by receiving agency or committee.

(b) The Board shall maintain an escrow account at the financial institution used regularly for deposits and checks. Fees tendered during a period of suspension under G.S. 93B-2(d) shall be deposited into this escrow account.

*History Note: Authority G.S. 90A-74; 93B-2;  
Eff. July 1, 2019.*

#### **SECTION .0200 - CERTIFICATION OF ON-SITE WASTEWATER CONTRACTOR CONTRACTORS, INSPECTORS, OR AUTHORIZED ON-SITE WASTEWATER EVALUATORS OR INSPECTORS**

#### **21 NCAC 39 .0201 APPLICATION REQUIREMENTS FOR CERTIFICATION**

(a) Applications for certification ~~or renewal of certification~~ shall be submitted ~~annually~~ on forms provided by the Board.

- (1) Applications for either contractor or inspector shall include:
  - (1)(A) Applicant's name;
  - (2)(B) Business Company address;
  - (3)(C) Phone number;
  - (4)(D) Date of birth;
  - (5)(E) Email address, if available;
  - (6)(F) Business Company or employer name and address;
  - (7)(G) Business Company phone number;
  - (8)(H) County where company is located;
  - (9)(I) If the certification is for contractor or inspector;
  - (10)(J) The contractor certification level requested;
  - (11)(K) Certification number, if renewal;
  - (12)(L) Required certification fee or annual fee for level of certification;
  - (13)(M) Dates, locations, hours, and providers of required education and training; and
  - (14)(N) Applicant signature; and
  - (O) Social Security Number.



(2) Applications for evaluator shall include:

- (A) Applicant's name;
- (B) Company address;
- (C) Phone number;
- (D) Date of birth;
- (E) Email address, if available;
- (F) Company or employer name and address;
- (G) Company phone number;
- (H) County where company is located;
- (I) Required certification fee;
- (J) Dates, locations, hours, providers, and completion certificate that includes the required Board-approved evaluator course;
- (K) Copy of current Errors and Omission Policy declaration page, with minimum coverage of one million dollars (\$1,000,000.00);
- (L) Copy of current General Liability Policy declarations page, with minimum coverage of one million dollars (\$1,000,000.00);
- (M) Copy of current Soil Scientist License Pursuant to Chapter 89F;
- (N) Verification of minimum of five (5) years' experience in on-site wastewater soil science;
- (O) Applicant signature; and
- (P) Social Security Number.

(b) Applications for renewal shall be submitted annually on forms provided by the Board. Applications for either contractor, inspector, or evaluator shall include:

- (1) Certification holder's name;
- (2) Company name;
- (3) Company address;
- (4) Certification number(s)
- (5) Copy of required continuing education certificate(s);
- (6) Annual renewal fee;
- (7) Current copies of all required insurance declarations pages;
- (8) Evaluators will also submit current copy of LSS license; and
- (9) Applicant signature.

~~(b)(c)~~ The Board shall determine whether an application is complete. Incomplete applications and applications not accompanied by an appropriate fee shall not be processed and shall be returned to the applicant.

~~(e)(d)~~ The Board shall not schedule an applicant to take the required examination until their application has been reviewed and approved and the applicant has met all other conditions for certification, ~~which, for new applicants includes an 18 hour new installer course.~~

~~(d)(e)~~ The Board may request verification of education and training.

~~(e)(f)~~ All certified ~~contractors or inspectors~~ contractors, inspectors, or evaluators shall submit a renewal application by November 15 of each year. If a renewal applicant's renewal application is not received by the Board until after December 31 of that calendar year, the renewal applicant shall pay a late fee of twenty-five dollars (\$25.00) in accordance with G.S. 90A-78(b). If a renewal application is received by the Board after December 31, it will not be processed until the late fee is received.

~~(f)(g)~~ If the renewal application is postmarked more than 90 days after December 31, the person must meet the requirements for re-certification.

~~(e)(h)~~ Applications for new certifications requiring testing must be received by the Board at least 15 days prior to the scheduled date of the examination.

~~(h)(i)~~ Applications for certification level upgrades must be received at least 24 hours prior to the scheduled date of the examination.

~~(i)(j)~~ In cases where the applicant is ineligible for examination, the applicant shall be notified by letter and advised of the reason for ineligibility.

~~(j)(k)~~ Applicants who have supplied false information must wait 12 months before resubmitting an application for certification or renewal and must forfeit all fees paid.

*History Note: Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 130A-336.2  
Eff. February 1, 2011.*

**21 NCAC 39 .0202 BUSINESS SUCCESSION**

(a) A person may be certified pursuant to G.S. 90A-77(c) by:

- (1) Providing the Board documentation of being supervised by and employed full time with a certified contractor or inspector for the past three years;
- (2) Providing the Board three affidavits from local health department, engineers, or customers that show integral involvement with the installation of on-site wastewater systems;

- (3) Providing the Board with an application for certification, including appropriate initial fees;
- (4) Providing the Board with proof of attendance at approved continuing education courses for a minimum of two years; and
- (5) Passing the applicable test for the level requested.

*History Note: Authority G.S. 90A-74; 90A-77;  
Eff. January 1, 2013.*

**SECTION .0300 - ONSITE WASTEWATER ~~CONTRACTOR OR INSPECTOR~~ CONTRACTOR, INSPECTOR, OR EVALUATOR FEES**

**21 NCAC 39 .0301 SCHEDULE OF CERTIFICATION FEES**

(a) Application fees are:

Grade Level	Initial Fee	Renewal Fee
I	\$150.00	\$75.00
II	\$200.00	\$75.00
III	\$250.00	\$75.00
IV	\$300.00	\$75.00
Inspector Certificate	\$200.00	\$75.00
Combination Contractor Certification Grade Level and Inspector Certificate	Sum of individual fees	\$125.00
<u>On-site Wastewater Evaluator</u>	<u>\$1000.00</u>	<u>\$100.00</u>

- (b) Application fees shall not be pro-rated.
- (c) The fee for re-instatement of a revoked or suspended certification is five hundred dollars (\$500.00).
- (d) The fee for certificate replacement or duplication is twenty-five dollars (\$25.00).
- (e) The fee for late renewal is twenty-five dollars (\$25.00). This fee is charged if the renewal request is received after December 31.
- (f) The fee for each returned check is twenty-five dollars (\$25.00).
- (g) All fees are non-refundable.

*History Note: Authority G.S. 25-3-506; 90A-72(a); 90A-74; 90A-75; 90A-77(f); 90A-78(b);  
Eff. February 1, 2011;  
Amended Eff. January 1, 2016.*

**SECTION .0400 - CERTIFICATION BY EXAMINATION**

**21 NCAC 39 .0401 ON-SITE WASTEWATER ~~CONTRACTOR OR INSPECTOR~~ CONTRACTOR, INSPECTOR, OR EVALUATOR EXAMINATIONS**

- (a) On-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator examinations shall be comprehensive examinations that are standardized statewide.
- (b) The exam questions shall be based on the grade levels.
- (c) Combination certification shall require taking and passing the individual component exams.
- (d) A grade on the examination of 70 percent or more shall be passing. Results of the examination shall be reported as either passing or failing.

*History Note: Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2  
Eff. February 1, 2011; Amended Eff. January 1, 2016.*

## **21 NCAC 39 .0402 TIME AND PLACE OF EXAMINATION**

- (a) The Board may schedule on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator examinations in addition to the statutorily required examinations given at least three times a year, at least once in the Eastern, Central, and Western regions of the state. Additional examinations may be scheduled by the Board if the Board determines that the three scheduled examinations are insufficient due to the number of applicants for examination or the time between examinations. Information regarding the date, time, and place shall be made available on the Board's web site or upon request.
- (b) The Board shall notify each applicant filing for examination in writing of the date, time and place of the examination.

*History Note:* Authority G.S. 90A-72; 90A-74; 90A-77;  
Eff. February 1, 2011.

## **21 NCAC 39 .0403 CONDUCTING AND GRADING EXAMINATIONS**

- (a) Examinations shall be conducted and graded under the supervision of a representative of the Board.
- (b) Applicants shall identify themselves by way of a driver's license or other form of photographic identification issued by a state or federal government agency and the identification number shall be recorded on the face of the examination paper.
- (c) Applicants shall not cheat or attempt to cheat on an examination by any means, including both giving and receiving assistance, and shall not communicate in any manner for any purpose other than with an examination supervisor during an examination. Applicants shall not deliberately disrupt the quiet and orderly administration of an examination in any manner. Violation of this Paragraph is cause for dismissal from the examination, invalidation of examinations scores, denial of certification and revocation of certification if the person is certified.

*History Note:* Authority G.S. 90A-72; 90A-74; 90A-77; 90A-81;  
Eff. February 1, 2011.

## **21 NCAC 39 .0404 ISSUANCE OF CERTIFICATES**

- (a) After an examination grading, the applicant shall be informed in writing by the Board or its authorized representatives as to the results of their examination. The Board shall not respond to oral or other requests for exam results.
- (b) Upon successful completion of the examination and all requirements for certification the applicant shall be issued a certification card.
- (c) Questions by the applicant concerning the examination must be made in writing to the Board within six months of the notification date.
- (d) An applicant who fails to pass an examination shall be entitled to and notified of the privilege to review his examination in the presence of one or more Board members or its authorized representative at a location approved by the Board.
- (e) Each certified on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator shall be assigned a unique certification number. Certification numbers are not transferable and shall not be used by another onsite wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator.
- (f) Each evaluator shall be issued a seal.

*History Note:* Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2  
Eff. February 1, 2011.

## **21 NCAC 39 .0405 LICENSURE FOR MILITARY-TRAINED APPLICANT; LICENSURE FOR MILITARY SPOUSE**

- (a) Licensure for a military-trained applicant. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military-trained applicant, the Board shall issue a license upon the applicant's satisfying the following conditions:
- (1) Submit a complete Application for Certification;
  - (2) Submit a license fee in accordance with G.S. 90A-27;
  - (3) Provide documentation to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2); ~~and~~
  - (4) For evaluator, provide documentation to satisfy conditions set out in G.S. 89F, and

- (4)(5) Provide documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed,
- (b) Licensure for a military spouse. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a license upon the applicant's satisfying the following conditions:
- (1) Submit a complete Application for Certification;
  - (2) Submit a license fee in accordance with G.S. 90A-27;
  - (3) Submit documentation demonstrating that the applicant is married to an active member of the U.S. military;
  - (4) Provide documentation to satisfy conditions set out in G.S. 93B-15.1(b)(1) and (2); ~~and~~
  - (5) For evaluator, provide documentation to satisfy conditions set out in G.S. 89F, and
  - (5)(6) Provide documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed.

*History Note:* Authority: G.S. 90A-74; 93B-15.1; 130A-336.2  
Eff. April 1, 2014.

## SECTION .0500 - CERTIFICATION RENEWAL

### 21 NCAC 39 .0501 CONDITIONS AND LIMITATIONS FOR RENEWAL OF CERTIFICATIONS

- (a) Certifications shall expire on December 31 of each year.
- (b) A renewal shall not be granted if the applicant's certification is suspended or revoked until the period for such suspension or revocation has expired.
- (c) Certified individuals under this program shall notify the Board within 30 days in writing of any changes to their name, company name, company address, phone number, or email address.

*History Note:* Authority G.S. 90A-72; 90A-74; 90A-77;  
Eff. February 1, 2011.

## SECTION .0600 - CONTINUING EDUCATION REQUIREMENTS

### 21 NCAC 39 .0601 REQUIREMENTS

- (a) Every certified on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator shall obtain Professional Development Hours (PDH) units during the renewal period as described in the following table:

Level	Annual PDH Units Required
I	3
II	3
III	6
IV	6
Inspector	6
Combination Contractor Grade Level and Inspector	6
<u>Evaluator</u>	<u>12</u>

- (b) The certified on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator shall select courses and activities that have been approved as set out in 21 NCAC 39 .0602.
- (c) Professional Development Hours (PDH) shall be accepted by the Board for approved courses pursuant to 21 NCAC 39 .0603. Hours for all other courses shall be submitted by providers to the Board for approval pursuant to 21 NCAC 39 .0602. If not approved, no PDH shall be granted for the course.
- (d) The class provider or authorized representative of the class provider shall certify that each class attendee was present for at least 85 percent of the class. Any attendee present for less time shall not receive credit for the class.

*History Note:* Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 130A-336.2  
Eff. February 1, 2011;  
Amended Eff. January 1, 2016; January 1, 2013.

## **21 NCAC 39 .0602 APPROVAL OF CONTINUING EDUCATION COURSES**

- (a) All continuing education courses shall be approved by the Board before PDH can be granted.
- (b) All continuing education courses shall be approved on an annual basis.
- (c) The Board shall approve courses that instruct on on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator activities and the use of on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator equipment, products, and materials. The Board shall determine that courses and activities contain a clear purpose and objective and result in the maintenance, improvement, or expansion of skills and knowledge related to the practice of on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator activities. Providers may request approval of courses or activities from the Board by obtaining and completing a form available on the Board's website (www.ncowcicb.info) or by a written request to the Board that provides the following information:
- (1) Course content;
  - (2) Course schedule;
  - (3) Level of instruction provided (Level 1, 2, 3, 4, Inspector, or level 4/Inspector); Combination Contractor Grade Level and Inspector); or evaluator;
  - (4) Qualifications of instructors (including both education and experience); and
  - (5) Materials provided, field experiences, and other activities available in connection with the course(s).

*History Note:* Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 130A-336.2  
Eff. February 1, 2011;  
Amended Eff. January 1, 2016.

## **21 NCAC 39 .0603 DETERMINATION OF CREDIT**

The Board has final authority with respect to approval of courses credit, PDH values for courses, and other methods of earning credit. Courses or activities must maintain, improve or expand the skills and knowledge related to the practice of on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator activities in order for an on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator to receive credit. The Board shall award the stated hours of credit (PDH) for any acceptable and successfully completed activity in each of the following categories:

- (1) Credit for college or community college courses shall be a maximum of 12 PDH for receipt of a passing grade in the course;
- (2) Credit for continuing education correspondence courses provided through television, videotapes, audiotapes, or other short courses/tutorial materials that provide a completion certificate shall be one PDH unit for each hour of attendance or contact time, up to a maximum of 12 PDH; and
- (3) Credit for teaching or presenting in Item (2) of this Rule are double the stated credits. Credit for teaching or presenting is available only for the first time that an on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator teaches such a course or makes such a presentation.

*History Note:* Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 130A-336.2  
Eff. February 1, 2011.

## **21 NCAC 39 .0604 RECORDKEEPING**

The responsibility of maintaining records to be used to support credits claimed is the responsibility of the ~~contractor or inspector~~ contractor, inspector, or evaluator. Records required include;

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, instructors or speakers name and PDH credits earned; or
- (2) Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance.

*History Note:* Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 130A-336.2  
Eff. February 1, 2011.

**21 NCAC 39 .0605 SPECIAL PROVISIONS FOR CONTINUING EDUCATION**

(a) An on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator serving on active duty in the uniformed services of the United States for a period of time exceeding 180 consecutive days in a year shall be granted an extension of time in which to obtain the professional development hours required during that renewal period. The extension shall allow the requesting on-site wastewater contractor or inspector 12 months from the date the extension is granted to correct the deficiency in professional development hours (PDH) for the renewal period in issue.

(b) If an on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator experiences a long-term disability or illness he may petition the board for an extension of time to obtain professional development hours required during that renewal period. The petition shall provide documentation including verification from a medical doctor of illness, with proof of disability. The extension of time shall not exceed 90 days into the following renewal year.

*History Note: Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 93B-15; 130A-336.2  
Eff. February 1, 2011.*

**SECTION .0700 - PROCEDURES FOR DISCIPLINARY ACTIONS**

**21 NCAC 39 .0701 REVOCATION, OR SUSPENSION OF CERTIFICATION**

(a) The Board may revoke or suspend the certification of an on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator in accordance with the provisions of G.S. 90A-80, 90A-81 and Article 3A of Chapter of 150B of the NC General Statutes. For holders of the Combination Contractor Grade Level and Inspector certifications, the Board may revoke or suspend either or both certifications.

(b) A certificate holder ~~may~~ shall relinquish a their certificate or seal by submission to the Board of the original certificate or seal and a notarized statement of relinquishment.

(c) The Board may restrict the certificate of an on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator. Written notice of the restriction shall be delivered in accordance with the provisions of service in G.S. 150B-42. A copy of the letter shall be kept in the on-site wastewater contractor or inspector's file. The on-site wastewater ~~contractor or inspector~~ contractor, inspector, or evaluator shall be given the opportunity to put a letter of rebuttal into the file. The letter shall be received by the Board within 30 days of receipt of the written notice.

*History Note: Authority G.S. 90A-72; 90A-74; 90A-80; 90A-81; 130A-336.2  
Eff. February 1, 2011;  
Amended Eff. January 1, 2016.*

**21 NCAC 39 .0702 CERTIFICATION FOLLOWING REVOCATION OR VOLUNTARY SURRENDER OF CERTIFICATION**

(a) If a certification is revoked or voluntarily surrendered the person may not apply for a new certification for a period of at least 12 months.

(b) An individual whose certification was revoked or voluntarily surrendered may apply to the Board for reinstatement after the 12-month period has ended.

(c) An individual approved by the Board to apply for reinstatement, must then meet all the requirements for a new applicant as specified in Article 5 of G.S. 90A and the rules adopted by the Board.

(d) Applicants denied reinstatement by the Board may appeal the decision pursuant to the procedures contained in G.S. 150B, Article 3A.

*History Note: Authority G.S. 90A-72; 90A-74; 90A-80; 90A-81;  
Eff. February 1, 2011.*

**21 NCAC 39 .0703 PENALTIES**

A person who violates any rule of this Section is subject to the penalties of G.S. 90A-81.

History Note: Authority G.S. 90A-72; 90A-74; 90A-80; 90A-81;  
Eff. February 1, 2011.

**SECTION .0800 – ONSITE WASTEWATER ~~CONTRACTOR OR INSPECTORS~~ CONTRACTOR, INSPECTOR, OR EVALUATOR CODE OF ETHICS**

**21 NCAC 39 .0801 CODE OF ETHICS**

- (a) ~~Contractors and inspectors~~ Contractors, inspectors, and evaluators shall at all times recognize their primary obligation is to protect the public in the performance of their professional duties and shall conduct the practice of those duties in a manner that protects the public health, safety and welfare.
- (b) Opinions expressed by ~~contractors and inspectors~~ contractors, inspectors, or evaluators in the discharge of their duties shall only be based on their education and experience.
- (c) ~~Neither a contractor nor an inspector~~ No contractor, inspector, or evaluator shall disclose any information about the results of an inspection or evaluation without the approval of the client for whom the inspection or evaluation was performed, or the client's designated representative, except as required by law.
- (d) No ~~contractor or inspector~~ contractor, inspector, or evaluator shall accept compensation or any other consideration from more than one interested party for the same service without the consent of all interested parties.
- (e) No ~~contractor or inspector~~ contractor, inspector, or evaluator shall accept or offer commissions or allowances, directly or indirectly, from or to other parties dealing with the client in connection with work for which the licensee is responsible.
- (f) No ~~contractor or inspector~~ contractor, inspector, or evaluator shall provide an appraisal nor express an opinion of the market value of the inspected property during an inspection or in the inspection report.
- (g) Before the execution of a contract to perform an on-site wastewater system inspection, an inspector shall disclose to the client any interest the inspector has in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the inspection work that the inspector may be called upon to perform.
- (h) Before the execution of a contract to perform an on-site wastewater system installation, a contractor shall disclose to the client any interest a contractor has in a business that may affect the client. No licensee shall allow his or her interest in any business to affect the quality or results of the installation work that the contractor may be called upon to perform.
- (i) Before the execution of a contract to perform an on-site wastewater system evaluation, an evaluator shall disclose to the client any interest the evaluator has in a business that may affect the client. No licensee shall allow his or her interest in any business or any technology to affect the quality or results of the evaluation work that the evaluator may be called upon to perform.
- ~~(j)~~ (j) Contractors shall not knowingly or willfully install a non-permitted system.
- ~~(k)~~ (k) Contractors shall not knowingly or willfully install a system or any part of a system other than what is specified in the permit by the local health department.
- ~~(l)~~ (l) ~~Contractors and inspectors~~ Contractors, inspectors, and evaluators shall not engage in false or misleading advertising, documentation, and reporting or otherwise misrepresent any matters to the public.
- ~~(m)~~ (m) ~~Contractors and inspectors~~ Contractors, inspectors, and evaluators shall discharge their duties in accordance with Article 5 of Chapter 90A of the North Carolina General Statutes and the rules of the Board.
- ~~(n)~~ (n) No inspector shall subcontract with another inspector for an on-site wastewater system inspection without the knowledge and signed consent of the client.
- ~~(o)~~ (o) The contractor of record shall be the responsible party for ~~the~~ an on-site wastewater system installation or repair that is permitted through the local health department.
- (p) The evaluator of record shall be responsible for the work conducted by a subordinate.
- (q) The evaluator shall not perform any of the functions performed by a professional engineer for engineered wastewater systems described in G.S. 130A-336.1
- (r) Evaluators who fail to comply with 89F-19 (Prohibitions; unlawful acts) and have their soil scientist license revoked or suspended shall also have their authorization as an evaluator revoked or suspended.
- (s) The evaluator shall not form a direct business relationship with any technology that may result in conflict of interest.
- (t) Employees of a local health department or DHHS shall not be able to perform the duties of an Authorized Onsite Wastewater Evaluator, Contractors, or Inspector.

History Note: Authority G.S. 89F-19, 90A-72; 90A-74; 130A-336.2  
Eff. November 1, 2011;  
Amended Eff. January 1, 2016.

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

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

*History Note: Authority G.S. 90A-74(6);  
Eff. July 1, 2019.*

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

- (a) If a certificate holder delegates service requested by a client to another certificate holder, he or she must give notice to the client on or before the date of service.
- (b) The certificate holder who delegates service as set forth in this Rule shall continue to be responsible for the delegated service provided to the client.

*History Note: Authority G.S. 90A-74(6);  
Eff. July 1, 2019.*

**~~21 NCAC 39 .0900~~ SECTION .0900 - RULEMAKING PROCEDURES**

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

- (a) Any person submitting a petition to adopt, amend, or repeal a rule by the Board shall address a petition to the Chairman at the Board office as follows: Post Office Box 132, Lawsonville, North Carolina 27022.
- (b) The petition shall contain the following:
  - (1) for petitions to adopt or amend a rule, a draft of the proposed rule or amendment;
  - (2) a statement of the effect of the requested rule change; and
  - (3) the name and address of the petitioner.
- (c) The petition may contain the following:
  - (1) the reason for the proposal;
  - (2) the effect of the new rule on existing rules; or
  - (3) any data supporting the rule proposal.

*History Note: Authority G.S. 90A-74; 150B-20;  
Eff. July 1, 2019.*

**21 NCAC 39 .0902 REQUEST FOR DECLARATORY RULING**

All requests for a declaratory ruling shall contain the following information:

- (1) the name, address, and telephone number of the person making the request;
- (2) the statute or rule to which the request relates; and
- (3) a statement describing the manner in which the person has been or may be aggrieved by the statute or rule.

If a hearing is desired, the request shall so state and shall include the reason a hearing is desired.

*History Note: Authority G.S. 90A-74; 150B-4(a);  
Eff. July 1, 2019.*

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

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

- (1) when the Board has issued a decision in a contested case with substantially similar facts;
- (2) when the facts underlying the request for a ruling on a rule were considered at the time of the adoption of the rule in question; or
- (3) when the subject matter of the request is involved in pending litigation in North Carolina.



History Note: Authority G.S. 90A-74; 150B-4;  
Eff. July 1, 2019.

## SECTION .1000 - NC ON-SITE WASTEWATER INSPECTOR STANDARDS OF PRACTICE

### 21 NCAC 39 .1001 DEFINITIONS

As used in this Section:

- (1) "Automatic safety controls" means devices designed and installed to protect systems and components from excessively high or low pressures and temperatures, excessive electrical current, loss of water, high water, fire, freezing, or other unsafe conditions.
- (2) "Component" means a readily accessible and observable part of an on-site wastewater system.
- (3) "Cross connection" means any physical connection or arrangement between potable water and the on-site wastewater system or any other source of contamination.
- (4) "Dangerous or adverse situations" means situations that pose a threat of injury to the inspector, or those situations that require the use of special protective clothing or safety equipment, such as personal protection equipment.
- (5) "Describe" means a written report of a condition found within the system or any observed component of the inspected system.
- (6) "Dismantle" means to take apart or remove any component, device or piece of equipment that is bolted, screwed, or fastened by other means and that would not be taken apart or removed by a homeowner or operator in the course of normal household maintenance.
- (7) "Enter" means to go into an area to inspect all readily accessible, readily openable, and readily visible components.
- (8) "Hydraulic Load Test" means the introduction of water or waste water into a system for the purposes of mimicking the system's peak flows.
- (9) "Inflow" means extraneous water directly entering a component, such as via a sump pump, foundation drain, condensate line, or infiltration.
- (10) "Normal operating controls" means certified operator or homeowner-operated devices.
- (11) "Normal wear and tear" means superficial blemishes or defects that do not interfere with the functionality of the component or system.
- (12) "Operate" means to cause systems or equipment to function.
- (13) "Readily accessible" means approachable or enterable for inspection without the risk of damage to any property or alteration of the accessible space, equipment, or opening.
- (14) "Readily openable access panel" means a panel provided for homeowner or certified operator maintenance and operation that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed for inspection. This definition is limited to those wastewater system components not blocked by stored items, furniture, building components or landscaping.
- (15) "Readily visible" means seen by using natural or artificial light without the use of equipment or tools other than a probe, flashlight or mirror.
- (16) "Roof drainage systems" means gutters, downspouts, leaders, splash blocks, and similar parts used to carry water off a roof and away from a building.
- (17) "Shut down" means a condition or conditions wherein a piece of equipment or system cannot be operated by the device or control that a homeowner should normally use to operate it. If its safety switch or circuit breaker is in the "off" position, or its fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.
- (18) "Statement of responsibility" means a signed and dated document, from the contractor to the system owner, that acknowledges the requirements of the onsite wastewater system specified by the evaluator.
- ~~(18)~~(19) "Structural component" means a wastewater system component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads), such as a control panel support, septic tank, D-box, or manifold.

History Note: Authority G.S. 90A-71, 90A-74; 130A-336.2  
Eff. October 1, 2011.

### 21 NCAC 39 .1002 GENERAL REQUIREMENTS 21 NCAC 39 .1002 GENERAL REQUIREMENTS FOR CONTRACTORS AND INSPECTORS

(a) Inspectors shall:

- (1) Provide a written contract, signed by the client or client's representative, before the on-site wastewater system inspection is performed that:
    - ~~(a)~~(A) States that the on-site wastewater system inspection is conducted in accordance with Rules .1004, .1005, and .1006 of this Section; and
    - ~~(b)~~(B) Describes what services shall be provided and their cost.
  - (2) Obtain written permission from the owner or owner's representative to perform the inspection.
  - (3) Inspect readily openable and accessible installed systems and components listed in this Section.
  - (4) Submit a written report to the client or client representative within 10 business days of the inspection that:
    - ~~(a)~~(A) Describes those systems and components required to be described in Rules .1005 through .1006 of this Section;
    - ~~(b)~~(B) States which systems and components designated for inspection in this Section have been inspected, and state any systems or components designated for inspection that were not inspected, and the reason for not inspecting. Failure to locate the system or components for inspection or "could not locate" shall not be the same as "not visible." If the system or component is not located, the written report shall state the failure to locate the system or components for inspection or "could not locate;"
    - ~~(c)~~(C) States any systems or components inspected that do not function as intended or harm the wastewater treatment system;
    - ~~(d)~~(D) States whether the condition reported requires repair or subsequent observation, or warrants further evaluation by the local health department. The statements shall describe the component or system and how the condition is defective, explain the consequences of the condition, and refer the recipient to the local health department or a certified on-site wastewater contractor; and
    - ~~(e)~~(E) States the name, license number, and signature of the certified inspector.
  - (5) Maintain records for a period of seven years.
- (b) Contractors that contract with owner of a system permitted by an evaluator shall:
- (1) Submit to evaluator and Board the insurance declaration page verifying sufficient errors and omissions, liability, or other coverage, as appropriate for the system designed, prior to commencing installation.
  - (2) Be certified pursuant to Article 5 of Chapter 90A of the General Statutes.
  - (3) Be responsible for all aspects of the construction and installation of the wastewater system and its components, including adherence to specifications and any special inspections that are prepared, signed, and sealed by the evaluator.
  - (4) Submit a dated and signed statement of responsibility to the owner of the wastewater system, prior to commencement of work.

*History Note: Authority G.S. 90A-71; 90A-72; 90A-74; 130A-336.2  
 Eff. October 1, 2011;  
 Amended Eff. January 1, 2016; April 1, 2014*

**21 NCAC 39 .1004 GENERAL EXCLUSIONS FOR CONTRACTORS AND INSPECTORS**

- (a) Inspectors shall not be required to report on:
- (1) Life expectancy of any component or system;
  - (2) The causes of the need for a repair;
  - (3) The methods, materials, and costs of corrections;
  - (4) The suitability of the property for any specialized use;
  - (5) The market value of the property or its marketability;
  - (6) The advisability or inadvisability of purchase of the property; or
  - (7) Normal wear and tear to the system.
- (b) Inspectors shall not be required to:
- (1) Identify property lines;
  - (2) Offer warranties or guarantees of any kind;
  - (3) Calculate the strength, adequacy, or efficiency of any system or component;
  - (4) Operate any system or component that does not respond to normal operating controls;
  - (5) Move excessive vegetation, structures, personal items, panels, furniture, equipment, snow, ice, or debris that obstruct access to or visibility of the system and any related components;
  - (6) Determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including toxins, carcinogens, noise, and contaminants in the building or in soil, water, and air;
  - (7) Determine the effectiveness of any system installed to control or remove suspected hazardous substances;
  - (8) Predict future condition, including failure of components;
  - (9) Project operating costs of components;
  - (10) Evaluate acoustical characteristics of any system or component; or

- (11) Inspect equipment or accessories that are not listed as components to be inspected in this Section.
- (c) Inspectors and Contractors shall not:
- (1) Offer or perform any act or service contrary to Article 5 of G.S. 90A or the rules of this Chapter; or
  - (2) Offer or perform engineering, architectural, plumbing, electrical, pesticide or any other job function requiring an occupational license in the jurisdiction where the inspection, installation, or repair is taking place, unless the on-site wastewater system inspector or contractor holds a valid occupational license in that field, in which case the inspector or contractor shall inform the client that the inspector or contractor is so licensed.

*History Note: Authority G.S. 90A-72; 90A-74  
Eff. October 1, 2011;  
Amended Eff. January 1, 2016.*

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

(a) When inspecting an on-site wastewater system, the inspector shall inspect and describe the following in a report as set forth in Rule .1002 of this Chapter:

- (1) any part of the system located more than five feet from the primary structure that is part of the operations permit;
- (2) septic tanks;
- (3) pump tanks;
- (4) distribution devices;
- (5) dispersal fields;
- (6) treatment units;
- (7) control panels;
- (8) any other components required as part of on-site wastewater system permit, including drainage; and
- (9) any vegetation and grading with respect only to their effect on the condition of the system or system components.

(b) The inspector shall:

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

(c) The inspector shall not be required to:

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

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

#### **21 NCAC 39 .1006 MINIMUM ON-SITE WASTEWATER SYSTEM INSPECTION**

(a) The inspector shall obtain, evaluate, describe, or determine the following during the inspection:

- (1) Advertised number of bedrooms as stated in the realtor Multiple Listing Service information or by a sworn statement of owner or owner's representative; and
- (2) Designed system size (gallons per day or number of bedrooms) as stated in available local health department information, such as the current operation permit or the current repair permit.

(b) The inspector shall obtain, evaluate, describe, or determine the following during the inspection:

- (1) Requirement for a certified subsurface water pollution control system operator pursuant to G.S. 90A-44, current certified operator's name, and most recent performance, operation and maintenance reports (if applicable and available);
  - (2) Type of water supply, such as well, spring, public water, or community water;
  - (3) Location of septic tank and septic tank details:
    - (A) Distance from house or other structure;
    - (B) Distance from well, if applicable;
    - (C) Distance from water line, if applicable and readily visible;
    - (D) Distance from property line, if said property lines are known;
    - (E) Distance from finished grade to top of tank or access riser;
    - (F) Presence and type of access risers;
    - (G) Condition of tank lids;
    - (H) Condition of tank baffle wall;
    - (I) Water level in tank relative to tank outlet;
    - (J) Condition of outlet tee;
    - (K) Presence and condition of outlet filter, if applicable;
    - (L) Presence and extent of roots in the tank;
    - (M) Evidence of tank leakage;
    - (N) Evidence of inflow non-permitted connections, such as from downspouts or sump pumps;
    - (O) Connection present from house to tank;
    - (P) Connection present from tank to next component;
    - (Q) Date tank was last pumped, if known; and
    - (R) Percentage of solids (sludge and scum) in tank;
  - (4) Location of pump tank and pump tank details:
    - (A) Distance from house or other structure;
    - (B) Distance from well or spring, if applicable;
    - (C) Distance from water line, if applicable;
    - (D) Distance from property line, if said property lines are known;
    - (E) Distance from finished grade to top of tank or access riser;
    - (F) Distance from septic tank;
    - (G) Presence and type of access risers;
    - (H) Condition of tank lids;
    - (I) Location of control panel;
    - (J) Condition of control panel;
    - (K) Audible and visible alarms (as applicable) work;
    - (L) Pump turns on, and effluent is delivered to next component; and
    - (M) Lack of electricity at time of inspection prevented complete evaluation;
  - (5) Location of dispersal field and dispersal field details:
    - (A) Type of dispersal field;
    - (B) Distance from property line, if said property lines are known;
    - (C) Distance from septic tank and also pump tank if a pump tank exists;
    - (D) Number of lines;
    - (E) Length of lines;
    - (F) Evidence of past or current surfacing at time of inspection;
    - (G) Evidence of traffic over the dispersal field;
    - (H) Vegetation, grading, and drainage with respect only to their effect on the condition of the system or system components; and
    - (I) Confirmation that system effluent is reaching the drainfield; and
  - (6) Conditions that prevented or hindered the inspection or determination of Subparagraph (b)(1) through (b)(5) of this Rule.
- (c) If a client declines to allow a tank to be pumped, the inspection form shall contain the statement:  
 "Client requesting this inspection has been advised that for a complete inspection to be performed, the tank needs to be pumped. Client has declined to have the tank pumped at inspection and hereby acknowledges they have so declined." A space shall be provided for the client signature and date.
- (d) The inspector shall not:
- (1) Insert any tool, probe, or testing device inside pump system control panels; or
  - (2) Dismantle any electrical device or control other than to remove the covers of the main and auxiliary control panels.

*History Note: Authority G.S. 90A-72; 90A-74;  
 Eff. October 1, 2011;  
 Amended Eff. January 1, 2016; April 1, 2014.*

## SECTION .1100 - NC ON-SITE WASTEWATER EVALUATOR STANDARDS OF PRACTICE

### 21 NCAC 39 .1101 DEFINITIONS

As used in this Section:

- (1) “Accepted wastewater dispersal system” as defined in G.S. 130A-343.
- (2) “Authorized inspector” or “Independent inspector” means an individual employed or contracted by an evaluator to observe and direct the construction of the wastewater system designed, planned, and specified by the evaluator.
- (3) “Notice of intent to construct” means the form developed by DHHS pursuant to G.S. 130A-336.2(b).
- (4) “Special inspection” means any continuous or intermittent inspection or visitation performed by the evaluator at the construction site on behalf of the owner.

*History Note:* Authority G.S. 130A-336.2

### 21 NCAC 39 .1102 GENERAL REQUIREMENTS FOR EVALUATORS

(a) Evaluators shall:

- (1) Be liable for any errors or omissions made by independent inspectors they employ or contract with.
- (2) Prepare signed and sealed soil and site evaluations, specifications, plans, and reports for the site layout construction, operation, and maintenance of a non-engineered wastewater system.
- (3) Provide a “notice of intent to construct” to the owner of a proposed wastewater system, so the owner can submit it to the local health department that has jurisdiction over the location of the proposed wastewater system.
- (4) Prepare a signed and sealed statement of special inspections that includes the following items:
  - (A) The materials, systems, components, and work subject to special inspections and testing;
  - (B) The type, frequency, and extent of each special inspection and each test.;
- (5) Notify the owner if the system will require the owner to enter into a contract with a water pollution control system operator certified pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes.
- (6) Assist the owner in the selection of an on-site wastewater system contractor, who shall be under contractual obligation to the owner of the system and have sufficient errors and omissions, liability, or other insurance for the system constructed.
- (7) Permit the use of an accepted wastewater dispersal system in lieu of a conventional system, in accordance with the accepted system approval.
- (8) Make periodic visits to the site to observe the progress and quality of the construction.
- (9) Hold a post-construction conference with the system owner, the contractor, the water pollution control system operator, if any, and representatives from the local health department. This shall include start-up and any required verification of system components.
- (10) Provide copies of all construction and inspection reports, signed by either the authorized inspector or the evaluator, to the owner and the contractor. Copies shall also be included in the submittal package to the local health department.
- (11) Maintain records for a period of seven years. This shall include a signed and dated copy of the operation and management program that was provided to the system owner and all inspection reports.

(b) Evaluators may assist in the construction, siting, relocation, or repair of any wastewater system described in G.S. 130A-343.

*History Note:* Authority G.S. 130A-336.2

### 21 NCAC 39 .1103 GENERAL EXCLUSIONS FOR EVALUATORS

(a) Evaluators shall not:

- (1) Offer or perform any act or service contrary to Article 5 of G.S. 90A, G.S. 130A-336.2, or the rules of this Chapter.
- (2) Form a direct business relationship with any technology that may result in a conflict of interest.

- (2) Perform any of the functions performed by a professional engineer for engineered wastewater systems described in G.S. 130A-336.1
- (3) Offer or perform engineering, architectural, plumbing, electrical, pesticide or any other job function requiring an occupational license in the jurisdiction where the evaluation, inspection, installation, or repair is taking place, unless the evaluator holds a valid occupational license in that field, in which case the evaluator shall inform the client that the evaluator is so licensed.

*History Note:* Authority G.S. 130A-336.2

## **21 NCAC 39 .1104      REQUIRED DOCUMENTS FOR EVALUATORS**

(a) Evaluators shall provide the owner with the following documents at the post-construction conference:

- (1) A signed and sealed copy of reports on soil conditions and site features, layouts, drawings, specifications, justification on any proposed design daily flow reductions, and any special inspection reports or corrections made during the construction of the system.
- (2) The owner's operation and management program established for the specific wastewater system installed.
- (3) Any reports and findings related to the evaluation, siting, and construction of the wastewater system.
- (4) Information to the owner on procedures for final submittal to the local health department.

*History Note:* Authority G.S. 130A-336.2