

## Article 5.

### Certification of On-Site Wastewater Contractors and Inspectors.

#### § 90A-70. Purpose.

It is the purpose of this Article to protect the environment and public health, safety, and welfare by ensuring the integrity and competence of on-site wastewater contractors, Authorized On-Site Wastewater Evaluators, private compliance inspectors, and point-of-sale inspectors; to require the examination of on-site wastewater contractors and inspectors and the certification of their competency to supervise or conduct the construction, installation, repair, evaluation or inspection of on-site wastewater systems; to establish minimum standards for ethical conduct, responsibility, training, experience, and continuing education for on-site wastewater system contractors, Authorized On-Site Wastewater Evaluators, private compliance inspectors and point-of-sale inspectors; and to provide appropriate enforcement procedures for rules adopted by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board. (2006-82, s. 1.)

#### § 90A-71. Definitions.

The following definitions apply in this Article:

- (1) "Authorized On-site Wastewater Evaluator" is as defined in G. S. 130A-336.2 (a).
- (2) "Board" means the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board.
- (3) "Contractor" means a person who constructs, installs, or repairs, or offers to construct, install, or repair an on-site wastewater system in the State.
- (4) "Conventional wastewater system" has the same meaning as in G.S. 130A-343(a)(3).
- (5) "Department" means the Department of Health and Human Services.
- (6) "Inspection" means an examination of an on-site wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that satisfies all of the following criteria:
  - a. Is requested by a lending institution, realtor, prospective homebuyer, or other impacted party as a condition of sale, refinancing, or transfer of title.
  - b. Meets the minimum requirements established by the Board.
- (7) "Inspector" means a person who conducts an inspection in accordance with rules adopted by the Board.
- (8) "On-site wastewater system" means any wastewater system permitted under the provisions of Article 11 of Chapter 130A of the General Statutes that does not discharge to a treatment facility or the surface waters of the State.
- (9) "Person" means all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities, or political subdivisions, governmental agencies, or private or public corporations organized and existing under the laws of this State or any other state or country.
- (10) "Private Compliance Inspector" means a person who is hired by the owner of a wastewater system, contractor, professional engineer, or authorized on-site wastewater evaluator to perform a compliance inspection of a new on-site wastewater system or for the repair of an existing on-site wastewater system permitted under the provisions of article 11 of Chapter 130A of the General Statutes. The owner or applicant for the wastewater system being constructed or repaired shall sign a Board-approved document accepting the Private Compliance Inspector.

- (11) "Wastewater treatment facility" means a mechanical or chemical treatment facility serving a site with multiple wastewater sources. (2006-82, s. 1; 2010-31, s. 13.2(e); 2011-145, s. 13.3(l).)

**§ 90A-72. Certification required; applicability.**

(a) Certification Required. - No person shall construct, install, or repair or offer to construct, install, or repair an on-site wastewater system permitted under Article 11 of Chapter 130A of the General Statutes without being certified as a contractor at the required level of certification for the specified system. No person shall conduct an inspection or offer to conduct an inspection of an on-site wastewater system as permitted under Article 11 of Chapter 130A of the General Statutes without being certified in accordance with the provisions of this Article. No person shall conduct an evaluation or offer to conduct the services authorized in G.S. 130A-336.2(a) without being certified as an Authorized On-site Wastewater Evaluator. No person shall conduct or offer to conduct a private compliance inspection of an on-site wastewater system for compliance with the designs of a Construction authorization issued pursuant to G.S. 130A-335(a5) or a Notice of Intent to Construct issued pursuant to G.S. 130A-336.1 or G.S. 130A-336.2 unless certified as a Private Compliance Inspector or pursuant to G.S. 130A-337(a1). The Private Compliance Inspector shall obtain written consent from the professional engineer pursuant to G.S. 130A-336.1 or the Authorized On-Site Wastewater Evaluator pursuant to G.S. 130A-336.2 prior to conducting the compliance inspection.

(b) Applicability. - This Article does not apply to the following:

- (1) A person who is employed by a certified contractor or inspector in connection with the construction, installation, repair, or inspection of an on-site wastewater system performed under the direct and personal supervision of the certified contractor or inspector in charge.
- (2) A person who constructs, installs, or repairs an on-site wastewater system described as a single septic tank with a gravity-fed gravel trench dispersal media when located on land owned by that person and that is intended solely for use by that person and members of that person's immediate family who reside in the same dwelling.
- (3) A person licensed under Article 1 of Chapter 87 of the General Statutes who constructs or installs an on-site wastewater system ancillary to the building being constructed or who provides corrective services and labor for an on-site wastewater system ancillary to the building being constructed.
- (4) A person who is certified by the Water Pollution Control System Operators Certification Commission and contracted to provide necessary operation and maintenance on the permitted on-site wastewater system.
- (5) A person permitted under Article 21 of Chapter 143 of the General Statutes who is constructing a water pollution control facility necessary to comply with the terms and conditions of a National Pollutant Discharge Elimination System (NPDES) permit.
- (6) A plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes, so long as the plumber is not performing plumbing work that includes the installation or repair of a septic tank or similar depository, such as a treatment or pretreatment tank or system, or lines, tanks, or appurtenances downstream from the point where the house or building sewer lines from the plumbing system meet the septic tank or similar depository. This subdivision shall not be construed to require a plumbing contractor to become certified as a contractor pursuant to this section to install or repair a grease trap, interceptor, or separator upstream from a septic tank or similar depository that complies with the requirements of the local health department.

- (7) A person employed by the Department, a local health department, or a local health district, when conducting a regulatory inspection of an on-site wastewater system for purposes of determining compliance. (2006-82, s. 1; 2010-31, s. 13.2(f); 2015-286, s. 4.14A.)

### **§ 90A-73. Creation and membership of the Board.**

(a) Creation and Appointments. - There is created the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board. The Board shall consist of nine members appointed to three-year terms as follows:

- (1) One member appointed by the Governor who, at the time of appointment, is engaged in the construction, installation, repair, or inspection of on-site wastewater systems, to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (2) One member appointed by the Governor who, at the time of appointment, is a certified water pollution control system operator pursuant to Article 3 of this Chapter, to a term that expires on 1 July of years evenly divisible by three.
- (3) One member appointed by the Governor who is a registered professional engineer licensed under Chapter 89C of the General Statutes and whose work experience includes the design of on-site wastewater systems to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (4) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is engaged in the construction, installation, repair, or inspection of on-site wastewater systems, to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (5) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate who, at the time of appointment, is engaged in the business of inspecting on-site wastewater systems, to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.
- (6) One member appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate upon the recommendation of the North Carolina Home Builders Association, to a term that expires on 1 July of years evenly divisible by three.
- (7) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is engaged in the construction, installation, repair, or inspection of on-site wastewater systems, to a term that expires on 1 July of years evenly divisible by three.
- (8) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is (i) a registered environmental health specialist, and (ii) engaged primarily in the inspection of on-site wastewater systems pursuant to Article 5 of this Chapter, and the operation of on-site wastewater systems, to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.
- (9) One member appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives who, at the time of appointment, is an Authorized On-Site Wastewater Evaluator certified pursuant to Article 5 of this Chapter, to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(b) Vacancies. - An appointment to fill a vacancy on the Commission created by the resignation, dismissal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.

(c) , (d) Repealed by Session Laws 2010-31, s. 13.2(h), effective July 1, 2010.

(e) Officers. - The Board shall elect a Chair from among its members. The Chair shall serve from the time of election until 30 June of the following year, or until a successor is elected.

(f) Compensation. - Board members who are State employees shall receive no per diem compensation for serving on the Board but shall be reimbursed for their expenses in accordance with G.S. 138-6. All other Board members shall receive per diem compensation and reimbursement in accordance with the compensation rate established in G.S. 93B-5.

(g) Quorum. - A majority of the members of the Board constitutes a quorum for the transaction of business.

(h) Meetings. - The Board shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members of the Board.

(i) Repealed by Session Laws 2010-31, s. 13.2(h), effective July 1, 2010. (2006-82, s. 1; 2010-31, ss. 13.2(g), (h); 2011-145, s. 13.3(mm); 2021-38, s. 1; 2023-90, s. 7(a).)

### **§ 90A-74. Powers and duties of the Board.**

The Board shall have the following general powers and duties:

- (1) To adopt rules in the manner prescribed by Chapter 150B of the General Statutes to govern its actions and to implement the provisions of this Article, as well as the provisions of G.S. 130A-336.2.
- (2) To determine the eligibility requirements for persons seeking certification pursuant to this Article.
- (3) To establish grade levels of certifications based on design capacity, complexity, projected costs, and other features of approved on-site wastewater systems.
- (4) To develop and administer examinations for specific grade levels of certification as approved by the Board. The Board may approve applications by recognized associations for certification of its members after a review of the requirements of the association to ensure that they are equivalent to the requirements of the Board.
- (5) To issue, renew, deny, restrict, suspend, or revoke certifications and to carry out any of the other actions authorized by this Article.
- (6) To establish, publish, and enforce rules of professional conduct of persons who are certified pursuant to this Article.
- (7) To maintain a record of all proceedings and make available to persons certified under this Article, and to other concerned parties, an annual report of all Board action.
- (8) To establish reasonable fees for application, certification, and renewal, and other services provided by the Board.
- (9) To conduct investigations to determine whether violations of this Article or grounds for disciplining persons certified under this Article exist.
- (10) To adopt a common seal containing the name of the Board for use on all certificates and official reports issued by the Board.
- (10a) To employ staff necessary to carry out the provisions of this Article and to determine the compensation, duties, and other terms and conditions of employment of its staff.
- (10b) To employ professional, clerical, investigative, or special personnel necessary to carry out the provisions of this Article.
- (10c) To acquire, hold, convey, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to the approval of the Governor and Council of State. The rents, proceeds, and other revenues and benefits of the ownership of real property shall inure to the Board. Collateral pledged by the Board for any encumbrance of real property shall be limited to the assets, income, and revenues of the Board.
- (11) To conduct other services necessary to carry out the purposes of this Article. (2006-82, s. 1; 2010-31, s. 13.2(i); 2020-74, s. 1; 2023-90, s. 8.)

**§ 90A-75. Expenses and fees.**

(a) Expenses. - All salaries, compensation, and expenses incurred or allowed for the purposes of carrying out this Article shall be paid by the Board exclusively out of the funds received by the Board as authorized by this Article. No salary, expense, or other obligations of the Board may be charged against the General Fund of the State. Neither the Board nor any of its members or employees may incur any expense, debt, or financial obligation binding upon the State.

(b) Contributions. - The Board may accept grants, contributions, devises, and gifts that shall be kept in the same account as the funds deposited in accordance with this Article and other provisions of the law.

(c) Fees. - All fees shall be established in rules adopted by the Board. The Board shall establish fees sufficient to pay the costs of administering this Article, but in no event shall the Board charge a fee at an annual rate in excess of the following:

- (1) Application for grade level II \$200.00
- (2) Application for each grade level IV \$300.00
- (3) Certification renewal for:
  - a. Contractor or point of sale inspector \$75.00
  - b. Authorized On-Site Wastewater Evaluator \$100.00
  - c. Private Compliance Inspector \$100.00
- (4) Reinstatement of revoked or suspended Certification \$500.00
- (5) Application for on-site wastewater system point-of-sale inspector \$200.00
- (6) Application for authorized on-site wastewater evaluator \$300.00
- (7) Application for Private Compliance Inspector \$300.00

(c1) Use of Fees. - All fees collected pursuant to this Article shall be held by the Board and used by the Board for the sole purpose of administering this Article.

(d) Audit. - The Board is subject to the oversight of the State Auditor under Article 5A of Chapter 147 of the General Statutes. (2006-82, s. 1; 2010-31, s. 13.2(j); 2011-284, s. 66; 2020-74, s. 1A.)

**§ 90A-76: Repealed by Session Laws 2010-31, s. 13.2(k), effective July 1, 2010.**

**§ 90A-77. Certification requirements.**

(a) Certification. - The Board shall issue a certificate of the appropriate grade level to an applicant who satisfies all of the following conditions:

- (1) Is at least 18 years of age.
- (2) Submits a properly completed application to the Board.
- (3) For Grade Level II contractor certification, applicant shall satisfy the following conditions:
  - a. Complete the basic on-site wastewater education approved by the Board for any level
  - b. Complete any additional class hours required for grade level II.
- (3a) For grade level IV contractor certification, applicant shall satisfy the following conditions:
  - a. Hold current and satisfactory certification of grade level II for a minimum of two years prior to application for grade level IV.
  - b. Complete any additional class hours required for grade level IV.
- (3b) For inspector certification, applicant shall satisfy the following conditions:
  - a. Complete the point-of-sale inspector education approved by the Board.
  - b. Complete any additional class hours required for point-of-sale inspector certification.

- c. Hold current and satisfactory certification of grade level IV contractor, or Authorized On-Site Wastewater Evaluator or subsurface operator certification for a minimum of two years.
  - d. In lieu of the experience requirements in this subdivision, an applicant may instead complete the approved education requirements for the grade IV contractor certification as required by the Board.
- (3c) For authorized On-Site Wastewater Evaluator, applicant shall complete the Authorized On-Site Wastewater Evaluator education approved by the Board.
- (3d) For Private Compliance Inspector, applicant shall satisfy the following conditions:
- a. Complete the Private Compliance Inspector education approved by the Board.
  - b. Complete any additional class hours required by the Board for compliance inspector certification.
  - c. Have a minimum of 5 years of experience as a certified contractor, Authorized On-Site Wastewater Evaluator, subsurface operator, or a registered environmental health specialist with experience in on-site wastewater matters.
  - d. Not be employed by a local health department.
- (4) Repealed by Session Laws 2010-31, s. 13.2(l), effective July 1, 2010.
- (5) Completes any additional training program designed by the Board specific to the grade level for which the applicant is applying.
- (6) Pays the applicable fees set by the Board for the particular application.
- (7) Passes a written or oral examination that tests the applicant's proficiency in all of the following areas:
- a. Principles of public and environmental health associated with on-site wastewater systems.
  - b. Principles of construction and safety.
  - c. Technical and practical knowledge of on-site wastewater systems.
  - d. Laws and rules related to the installation, construction, repair, point-of-sale inspection, evaluation or private compliance inspection of wastewater systems.

(b) Location of Examinations. - The Board shall provide a minimum of three examinations each year; one each in the eastern, central, and western regions of the State.

(b1) Any applicant for an exam shall submit the complete package to the Board no later than 15 business days prior to the exam date to be considered eligible for the exam.

(c) Approval of Certification Programs. - The Board may issue a certificate to an applicant who has completed an approved training or continuing education program.

(d) No Degree Required. - An applicant shall not be required to hold or obtain an educational diploma or degree to obtain a certificate. An applicant that meets all the conditions for certification except for passage of the Board examination may take the examination on three successive occasions without having to file for a new application, pay an additional application fee, or repeat any applicable training program. If the applicant fails to pass the Board examination on three successive occasions, the applicant must reapply to the Board, pay an additional application fee, and repeat the training program.

(e) Certificate. - The certification shall show the full name of the certificate holder. The certificate shall provide a unique identification number and shall be signed by the Chair. Issuance of the certificate by the Board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a certified contractor at the grade level specified on the certificate, inspector, authorized On-Site Wastewater Evaluator, or Private Compliance Inspector while the certificate remains in effect.

(f) Replacement Certificate. - A new certificate to replace one lost, destroyed, or mutilated shall be issued subject to rules adopted by the Board and with the payment of a fee set by the Board. The fee for a duplicate or replacement certificate shall not exceed twenty-five dollars (\$25.00). (2006-82, s. 1; 2010-31, s. 13.2(l).)

**§ 90A-78. Certification renewal.**

(a) Renewal. - All certifications shall expire on December 31 of each year unless they are renewed. To renew a certification, a contractor, inspector, Authorized On-Site Evaluator, or Private Compliance Inspector must meet all of the following conditions:

- (1) Submit an application for renewal on the form prescribed by the Board, which includes all supporting documents requested on the renewal form.
- (2) Meet the following continuing education requirements:
  - a. Grade Level II contractor: 3 hours per year,
  - b. Grade Level IV contractor: 6 hours per year,
  - c. Point-of-sale inspector: 6 hours per year,
  - d. Authorized on-site wastewater evaluator: 12 hours per year,
  - e. Private compliance inspector: 12 hours per year,
  - f. For persons holding more than one certification issued by the Board, the higher annual hours continuing education requirement of all certificates held.
- (3) Pay the certification renewal fee.
- (4) Submit the renewal by November 15 annually.

(b) Late Fee. - The late fee shall not exceed twenty-five dollars (\$25.00). Late fees shall be payable for any renewable fee paid after the due date.

(c) Renewal Process for Expired Certifications. – The renewal process for expired certificates for contractors, point-of-sale inspectors, Authorized On-Site Wastewater Evaluators, and Private Compliance Inspectors shall be as follows:

- (1) Within 90 days of its expiration, an expire certificate may be renewed upon payment of the certification renewal fee in G.S. 90A-75( c ) (3) and the late fee established pursuant to subsection (b) of this section
- (2) Between 91 days and 24 months of its expiration, an expired certificate may be renewed upon submittal of an application for recertification, the certification renewal fee in G.S. 90A-75(c) (3), total of continuing education required annually for certificate, and passing grade for exam required for certificate.
- (3) After 24 months of its expiration, no certificate may be renewed. The holder of a certificate expired for more than 24 months shall apply for a new certificate.

**§ 90A-79. Continuing education.**

(a) Requirements. - The Board shall require continuing education as a condition of certification and renewal. The Board shall determine the number of hours, based on certification held, up to a maximum of 12 hours per year, and the subject material for the specified grade level. The Board shall maintain records of continuing education coursework successfully completed by each certified contractor or inspector.

(b) Approval of Continuing Education Programs. - The Board may approve a continuing education program or course if the Board finds that the program or course provides useful educational information or experience that will enhance the construction, installation, repair, evaluation, or inspection of on-site wastewater systems. Requests for approval of continuing education programs or courses shall be submitted to the Board for review no later than two weeks prior to a regularly scheduled Board meeting and prior to the class being held. The Board shall not issue retroactive approvals for any continuing education program or course. Approvals shall be granted on an annual calendar year basis. The Board may develop and offer continuing education programs. (2006-82, s. 1.)

**§ 90A-80. Investigation of complaints.**

(a) Misconduct. - A person may refer to the Board charges of fraud, deceit, negligence, incompetence, or misconduct against any certified contractor or inspector. The charges shall be in writing and sworn to by

the complainant and submitted to the Board. These charges, unless dismissed without a hearing by the Board as unfounded or trivial, shall be heard and determined by the Board in accordance with the provisions of Chapter 150B of the General Statutes. An association that receives professional recognition of its own certification process by the Board shall be responsible for the conduct and competency of its members.

(b) Records. - The Board shall establish and maintain detailed records regarding complaints concerning each certified contractor, Authorized On-site Wastewater Evaluator, Private Compliance Inspector or point-of-sale inspector. The records shall include those certified by recognized associations. The records shall also detail the certification held by each contractor, Authorized On-Site Wastewater Evaluator, Private Compliance Inspector or point-of-sale inspector.

(c) Notification. - The Board shall provide local health departments with notification of changes in certifications, complaints, suspensions, or reinstatements under this Article. This requirement may be satisfied electronically via the Environmental Health Listserv maintained by the Department.

### **§ 90A-81. Remedies.**

(a) Denial, Suspension, and Revocation of Certification. - The Board may deny, suspend, or revoke a certificate under this Article for:

- (1) A violation of this Article or a rule of the Board.
- (2) The use of fraud or deceit in obtaining or renewing a certificate.
- (3) Any act of gross negligence, incompetence, or misconduct in the construction, installation, repair, or inspection of an on-site wastewater system.
- (4) Failure to satisfactorily complete continuing education requirements prescribed by the Board.

(b) Arbitration. - The Board may establish a voluntary arbitration procedure to resolve complaints concerning a certified contractor or inspector or any work performed by a certified contractor or inspector, or conflicts involving any certified contractor or inspector and the Division of Public Health of the Department or a local health department.

(c) Injunction. - The Board may in its own name seek an injunction to restrain any person, firm, partnership, or corporation from violating the provisions of this Article or rules adopted by the Board. The Board may bring an action for an injunction in the superior court of any county in which the violator resides, or the violator's principal place of business is located. In any proceedings for an injunction, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation. Members of the Board shall not be personally or professionally liable for any act or omission pursuant to this subsection. The Board shall not be required to post a bond in connection with any action to obtain an injunction.

(d) Offenses. - A person who commits any one or more of the following offenses is guilty of a Class 2 misdemeanor:

- (1) Engages in or offers to engage in the construction, installation, repair, evaluation or inspection of an on-site wastewater system without the appropriate certification.
- (2) Gives false or forged evidence of any kind in obtaining a certificate.
- (3) Falsely impersonates a certified contractor, Authorized On-Site Evaluator, Private Compliance Inspector, or point-of-sale inspector. (2006-82, s. 1; 2010-31, s. 13.2(m); 2011-145, s. 13.3(nn).)

G.S. 130A-337 is amended by adding two new subsections to read:

"(a2) Notwithstanding subsection (a) or (a1) of this section, an applicant may contract with a Private Compliance Inspector certified pursuant to Article 5 of Chapter 90A of the General Statutes to conduct any required verifications or inspections of an on-site wastewater system for compliance with the designs of a Construction Authorization issued pursuant to G.S. 130A-335(a5) or a Notice of Intent to Construct issued pursuant to G.S. 130A-336.1 or G.S. 130A-336.2 when all of the following criteria are met:



- (1) The Private Compliance Inspector is not the contractor of the on-site wastewater system being inspected or employed by the contractor of the on-site wastewater system being inspected.
- (2) The Private Compliance Inspector holds sufficient errors and omissions and general liability insurance for the project being inspected.
- (3) The Private Compliance Inspector obtains written approval from the professional engineer or Authorized On-Site Wastewater Evaluator prior to conducting the compliance inspection.
- (4) The Private Compliance Inspector documents the compliance inspection with the common form developed or approved by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board. The compliance inspection document shall show any as-builts as approved at the site and conveyed to the owner or authorized agency.
- (5) The Private Compliance Inspector delivers the completed compliance inspection form to the owner of the on-site wastewater system being inspected, professional engineer, or Authorized On-Site Wastewater Evaluator, as applicable.

## **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) "Authorized On-Site Wastewater Evaluator" means the same as defined in G.S. 130A-336.2(a); hereafter referred to as "evaluator".
- (2) "Building being constructed" means construction of a site-built single family residence constructed pursuant to Article 1, Chapter 87 of the N.C. General Statutes.
- (3) "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) "Course or Activity" means any course or activity with a purpose and objective that maintains, improves, or expands skills and knowledge relevant to the practice of on-site wastewater contractor or inspector activities and pre-approved in accordance with G.S. 90A-79(b) and Rule .0602 of this Section.
- (5) "Evaluation and findings" mean, at a minimum, the information required in G.S. 130A-335(e).
- (6) "Licensed soil scientist" means an individual licensed in accordance with Chapter 89F of the North Carolina General Statutes.
- (7) "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.
- (8) "Personally supervise" means to direct and control all on-site wastewater contractor or inspector activities during the time those activities are being conducted.
- (9) "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.
- (10) "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 On-Site Wastewater Evaluator option pursuant to G.S. 130A-336.2.
- (11) "Seal" means the seal required by G.S. 130A-336.2(d)(2) for certified Authorized On-Site Wastewater Evaluator.
- (12) "Subordinate" means the same as defined in G.S. 89F-3(10).

*History Note: Authority G.S. 90A-71; 90A-72; 90A-74; 130A-336.2;  
 Eff. February 1, 2011;  
 Amended Eff. January 1, 2016; January 1, 2013;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
 Amended Eff. June 1, 2021.*

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

(a) The levels of certification for on-site wastewater contractors are as follows:

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.

- (b) Inspectors are certified to inspect all on-site wastewater systems referenced in Paragraph (a).  
(c) Evaluators shall be certified pursuant to G.S. 130A-336.2.

*History Note: Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2;  
Eff. February 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. June 1, 2021.*

**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 CONTRACTORS, INSPECTORS, OR AUTHORIZED ON-SITE WASTEWATER EVALUATORS**

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

- (a) Applications for certification shall be submitted on forms provided by the Board.
- (1) Applications for a contractor or inspector 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) If the certification is for contractor or inspector;
  - (J) The contractor certification level requested;
  - (K) Certification number, if renewal;
  - (L) Required certification fee or annual fee for level of certification;
  - (M) Dates, locations, hours, and providers of required education and training;
  - (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, as required by G.S. 130A-336.2;
- (L) Copy of current General Liability Policy declarations page, as required by G.S. 130A-336.2;
- (M) Copy of current Soil Scientist License pursuant to Chapter 89F;
- (N) Verification of minimum of five 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 and shall include:

- (1) Certification holder's name;
- (2) Company name;
- (3) Company address;
- (4) Certification number(s)
- (5) Copy of required continuing education documentation;
- (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.

(c) Incomplete applications and applications not accompanied by the fee as set forth in Rule .0301 of this Chapter shall not be processed and shall be returned to the applicant.

(d) Upon approval of an application pursuant to the requirements of this Chapter, the Board shall schedule an applicant to take the required examination.

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

(f) All certified 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.

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

(h) Applications for new certifications requiring testing pursuant to G.S. 90A-77 must be received by the Board at least 15 days prior to the scheduled date of the examination.

(i) Any person requesting a certification level upgrade shall submit a request in writing and pay the difference in the fees set forth in Rule .0301 of this Chapter. Requests must be received no less than 24 hours prior to the scheduled date of the examination.

(j) In cases where the applicant is ineligible for examination for failure to meet the requirements set forth in Rules and statutes, the applicant shall be notified by letter and advised of the reason for ineligibility.

(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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*

*Amended Eff. June 1, 2021.*

## **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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

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

(a) Application fees are as follows: (updated by G.S. changes 2024)

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
On-site Wastewater Evaluator	\$300.00	\$100.00

- (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); 130A-336.2; Eff. February 1, 2011; Amended Eff. January 1, 2016; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. June 1, 2021.*

**SECTION .0400 - CERTIFICATION BY EXAMINATION**

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

(a) On-site wastewater contractor, inspector, or evaluator examinations shall be comprehensive examinations that are standardized statewide.

- (b) The exam questions shall be specific to the grade level being sought by the applicant.
- (c) Any applicant seeking a combination certification shall take and pass each exam specific to the grade level certifications being sought.
- (d) Each applicant shall obtain a passing score of at least 70 percent. Results of the examination shall be reported as either "pass" or "fail."

*History Note: Authority G.S. 90A-72; 90A-74; 90A-77; 130A-336.2;  
Eff. February 1, 2011;  
Amended Eff. January 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. June 1, 2021.*

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

- (a) The Board may schedule on-site wastewater contractor, inspector, or evaluator examinations in addition to the required examinations pursuant to G.S. 90A-77. 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; 130A-336.2;  
Eff. February 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. June 1, 2021.*

#### **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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **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 his or her examination. The Board shall not respond to 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, 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, inspector, or evaluator.
- (f) Upon successful completion of the examination, 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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. June 1, 2021.*

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

- (a) 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-75 and Rule .0301 of this Chapter;
  - (3) Provide documentation to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2);
  - (4) For evaluator, provide documentation from the N.C. Board for Licensing of Soil Scientists that requirements set out in G.S. 89F have been satisfied; and
  - (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) 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-75 and Rule .0301 of this Chapter;
  - (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);
  - (5) For evaluator, provide documentation from the N.C. Board for Licensing of Soil Scientists that requirements set out in G.S. 89F have been satisfied; and
  - (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; 90A-75; 93B-15.1; 130A-336.2;  
 Eff. April 1, 2014;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
 Amended Eff. June 1, 2021.

## **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;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

## **SECTION .0600 - CONTINUING EDUCATION REQUIREMENTS**

### **21 NCAC 39 .0601 REQUIREMENTS**

- (a) Every certified on-site wastewater 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
Evaluator	12

(b) The certified on-site wastewater contractor, inspector, or evaluator shall select courses and activities that have been approved as set out in Rule .0602 of this Chapter.

(c) Professional Development Hours (PDH) shall be accepted by the Board for approved courses pursuant to Rule .0602 of this Chapter. Hours for all other courses shall be submitted by providers to the Board for approval pursuant to Rule .0602 of this Chapter. If not approved, no PDH shall be granted for the course.

(d) Each on-site wastewater contractor, inspector, or evaluator shall attend at least 85 percent of the class in order to receive credit. Any attendee present for less time shall not receive credit for the class. The class provider or authorized representative shall certify that each class attendee meets the requirement of this Paragraph.

*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; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. June 1, 2021.*

**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 in accordance with G.S. 90A-79 that instruct on on-site wastewater contractor, inspector, or evaluator activities and that enhance a contractor's, inspector's, or evaluator's knowledge of construction, installation, repair, or inspection of wastewater systems. The Board shall determine that courses and activities result in the maintenance, improvement, or expansion of skills and knowledge related to the practice of on-site wastewater 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](http://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; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. June 1, 2021.*



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

*History Note: Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79;  
Eff. February 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Repealed Eff. June 1, 2021.*

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

Each contractor, inspector, or evaluator shall maintain records of any completed PDH courses including the following:

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, instructors or speaker's 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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. June 1, 2021.*

## **21 NCAC 39 .0605      EXTENSION OF TIME**

(a) The Board shall grant an on-site wastewater contractor, inspector, or evaluator an extension of time to complete continuing education (CE) requirements during a period of service in the Armed Forces of the United States upon submission of the following to the Board:

- (1) written request for extension; and
- (2) documentation that the requestor is serving in the Armed Forces of the United States and is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2.

(b) The Board shall grant an on-site wastewater contractor, inspector, or evaluator an extension of time to obtain CE requirements if he or she has a disability or illness that prevents him or her from complying with CE requirements. In order to receive the waiver, the requestor shall provide the Board with the following:

- (1) written request for waiver; and
- (2) documentation that describes the disability or illness and explains how the disability or illness prevents the contractor, inspector, or evaluator from complying with the Board's CE requirements. Documentation includes a letter from a licensed physician, nurse practitioner (NP), or physician assistant (PA).

(c) Where on a case-by-case basis the Board determines that due to an undue hardship (such as natural disaster or illness of family member) the contractor, inspector, or evaluator could not reasonably be expected to comply with the Board's CE requirements, the contractor, inspector, or evaluator shall be granted an extension of time in which to obtain the required CE credits. To be considered for an extension of time, a requestor shall submit the following:

- (1) written request for extension; and
- (2) documentation that supports the reason for the extension.

(d) The Board shall grant a waiver of CE requirements upon submission of documentation that a contractor, inspector, or evaluator is in active duty while serving in the Armed Forces and is or has been deployed for at least eight months during the twelve-month period during which CE credits were required.

(e) An extension granted under Paragraphs (b) or (c) of this Rule shall not exceed one year. Prior to the expiration of the one year extension of time, a contractor, inspector, or evaluator may request an additional extension in accordance with this Rule. Except as set out in Paragraph (a) of this Rule, the Board shall grant no more than two consecutive extensions.

*History Note: Authority G.S. 90A-72; 90A-74; 90A-77; 90A-78; 90A-79; 93B-15; 130A-336.2;  
Eff. February 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. June 1, 2021.*

## **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, 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) Following a revocation or suspension, a certificate holder shall relinquish his or her 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, 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, inspector, or evaluator's file. The on-site wastewater contractor, inspector, or evaluator shall be given the opportunity to put a letter of rebuttal into the file with the Board. 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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. June 1, 2021.*

#### **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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

#### **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;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

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

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

(a) 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, inspectors, or evaluators in the discharge of their duties shall only be based on their education and experience.
- (c) 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, 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, 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, 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 evaluator shall allow his or her interest in any business to affect the quality or results of the evaluation work that the evaluator may be called upon to perform. Pursuant to G.S. 130A-336.2(d)(1), the evaluator shall not form a direct business relationship with any technology.
- (j) Contractors shall not knowingly or willfully install a non-permitted system.
- (k) Contractors shall not knowingly or willfully install a system or any part of a system other than what is specified in the permit.
- (l) Contractors, inspectors, and evaluators shall not engage in false or misleading advertising, documentation, and reporting or otherwise misrepresent any matters to the public.
- (m) 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) No inspector shall subcontract with another inspector for an on-site wastewater system inspection without the knowledge and signed consent of the client.
- (o) The contractor of record shall be the responsible party for 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 G.S. 89F-19 and have their soil scientist license revoked or suspended shall also have their authorization as an evaluator revoked or suspended.
- (s) Employees of a local health department or DHHS shall not construct, install, evaluate, or repair, or offer to construct, install, evaluate, or repair, onsite wastewater systems outside of their employment with a local health department or DHHS.
- (t) Evaluators shall not perform duties of contractors or inspectors on any system on which they are the evaluator.

*History Note:* Authority G.S. 90A-70; 90A-72; 90A-74; 130A-336.2;  
Eff. November 1, 2011;  
Amended Eff. January 1, 2016;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;  
Amended Eff. June 1, 2021.

## **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 RESERVED FOR FUTURE CODIFICATION**

**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.*

**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. 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);  
Emergency Adoption Eff. May 20, 2020;  
Temporary Adoption Eff. July 24, 2020;  
Eff. June 1, 2021.*

## 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 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.
- (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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*

*Amended Eff. June 1, 2021.*

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

(a) Inspectors shall:

- (1) Provide to the client or the client's representative a written contract, signed by both the client or client's representative and the inspector, before the on-site wastewater system inspection is performed that:
  - (A) States that the on-site wastewater system inspection is conducted in accordance with Rules .1004, .1005, and .1006 of this Section; and
  - (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 Rule .1005 of this Section;
- (4) Submit a written report to the client or client representative within 10 business days of the inspection that:
  - (A) Describes those systems and components required to be described in Rules .1005 through .1006 of this Section;
  - (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) States any systems or components inspected that do not function as intended or harm the wastewater treatment system;
  - (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) 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 an owner of a system permitted by an evaluator in accordance with G.S. 130A-336.2 shall:

- (1) Submit to the evaluator and Board the insurance declaration page verifying errors and omissions, liability, or other coverage, as appropriate for the system designed, prior to commencing installation;
- (2) 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; and
- (3) 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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;*

*Amended Eff. June 1, 2021.*

**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;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

**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;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

## **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" means 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. 90A-74; 130A-336.2;*

*Eff. June 1, 2021.*

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

In addition to the duties set forth in G.S. 130A-136.2, evaluators shall:

- (1) 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;
- (2) 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;
- (3) 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; and
- (4) 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.

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

*Eff. June 1, 2021.*

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

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;
- (3) Perform any of the functions performed by a professional engineer for engineered wastewater systems described in G.S. 130A-336.1; and

- (4) 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;  
Eff. June 1, 2021.*

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

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; and
- (4) information to the owner on procedures for final submittal to the local health department.

*History Note: Authority G.S. 90A-74; 130A-336.2;  
Eff. June 1, 2021.*

