

NCOWCICB  
Meeting Agenda  
March 21, 2025 9:00 a.m.  
LOCATION: Doubletree 500 Caitboo Ave Cary, NC

9:00 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? None noted  
If so, please identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved.

9:05 a.m.      Classes: Jerry Pearce, David Swinney, Chris Dobbins recuse  
Recognition of any attending public and request to address board. Public may address the Board during this section of board meeting. Board will not respond to comments or request made by public. 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.  
Russ introduced Catherine Lee and Grant Simpkins counsel for the Board  
Anna Choi has left firm to go to work for GC Board as their full time counsel  
  
Jonathan Godfrey, OWP, addressed the Board regarding recent legislation that has been addressed, he appreciates the work of the Board, has concerns about whether or not the industry is being consulted, concerned about dual roles that members have that sit on the Board, some of industry don't think they have right to address the Board, legislation is in the works that puts up a barrier of entry to industry and legislation doesn't have public comment, he would support normal rule writing with public comments but not just going through legislation. Voiced concerns again about term limits for Board doesn't like the way legislation is written  
Adam Griffin, certification holder  
Echo Griffin, certification holder  
Ben Hintze, attorney OWP

9:15 a.m.      Approval of minutes from 12/6/24 Meeting. See attached  
Motion to approve David Swinney, 2<sup>nd</sup> Russ Ayers approved

9:20 a.m.      Treasurer's Report by Jerry Pearce, Treasurer  
Financial Report as of January 31, 2025

Monies on hand:	
First Horizon Operating Account	\$323,622.98**
First Citizens*	\$246,769.73
Bank of Oak Ridge*	\$234,776.32
Dogwood*	\$200,000.00
North State Bank*	\$245,512.79
First Bank*	\$227,817.55
Towne Bank*	\$162,002.00
KS Bank*	\$132,941.47
KS Bank*	\$118,565.75
Providence Bank*	\$205,251.00
First National*	<u>\$208,898.68</u>
Total Monies on hand	\$2,306,258.27

-      (\*CD held for future enforcement)

\*\*\*this account went below FDIC level in Feb with new CD opening  
Detailed YTD Financial Report thru 1/31/25 is not in from accountant  
Note: Fiscal year runs 7/1 – 6/30

Presented by Jerry Pearce Motion to approve: Walter James, 2<sup>nd</sup> Glenn Hines  
approved

9:25 a.m.      Update from Administrator:

- 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 3/12/25:

Board Member	Last Date Rcvd	Next Due Date
Russ Davis	1/15/24	1/15/26
Russ Ayers	12/6/23	12/6/25
Jerry Pearce	12/8/23	12/8/25
Glenn Hines	4/30/24	4/30/26
Michael Robinson	12/2/24	12/2/26
Walter James	3/14/23	3/14/25
Chris Dobbins	7/04/23	7/04/25
David Swinney	2/11/25	2/11/27
Jim Beeson	12/6/23	12/6/25
Connie Stephens(EL)	6/29/23	6/29/25

- Remember that you must file an SEI on or before 4/15/25. You can file online anytime after 1/1/25 by going to [NC Ethics Efile - Home Page](#)

Please do not wait until the last minute to file this as their system jams up at that time. I will email you reminder around February with a link. Once you have filed please send me an email letting me know you have filed.

- Class Approval Request:  
Request for class approvals:

Approval Request Received:

NC Environmental Health State of Practice Committee  
John Kase

Motion to approve Jim Beeson, 2<sup>nd</sup> Walter James, approved

- Renewals for the affected Hurricane Helene are still coming in. As granted by NCOWCICB extension those certifications expire on 3/31/25 if not renewed. They have until 6/30/25 to still renew.
- Rules are up for readoption. Attached is draft of our current rules with redaction made for content in these rules that is now in General Statute and does not get repeated in rules. Additions have been made to include private compliance inspector, clarity by adding “point of sale” to areas where it previously stated only inspector etc and some general additions.

According to attorney we can make these adjustments and additions in one process. Guidance will be given by attorney as to whether or not we include the additions are just the changes to the current rules in this process.

Discussion on rules:

Motion to approve rules and file notice of text with revisions as presented:

Glenn Hines, 2<sup>nd</sup> Jerry Pearce approved

11:15 a.m. Board shall enter Closed Session for discussion of complaints received,  
Motion to enter closed session Jim Beeson, 2<sup>nd</sup> David Swinney

11:45 a.m. Board shall re-enter regular session  
Motion to enter regular session: David Swinney, 2<sup>nd</sup> Mike Robinson

THE FOLLOWING COMPLAINTS WERE DISCUSSED IN CLOSED SESSION:

COMPLAINTS REVIEWED AND DECISIONS BY BOARD LISTED UNDER  
EACH COMPLAINT

Complaint 02042501 install without permit, 2<sup>nd</sup> offense revoke Jim Beeson, 2<sup>nd</sup>  
Walter James approved

Complaint 12162401 incorrect installation revoke, Chris Dobbins, 2<sup>nd</sup> David Swinney  
approved

Complaint 12302401 deposit received no work commenced, revoke, Walter James,  
2<sup>nd</sup> Glenn Hines, approved

Complaint 02052501 incorrect inspection letter of caution, Walter James, 2<sup>nd</sup> Mike  
Robinson, approved

11:50 a.m. Other business:  
Board meeting dates: Next Board Meeting will be 9/12/25 location yet to be  
determined, Wilmington

No other comments received

12:00 p.m. Meeting adjourn:  
Lunch will be served  
Motion Jim Beeson, 2<sup>nd</sup> Chris Dobbins

## 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 point of sale 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 point of sale 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~~ point of sale inspector or private compliance 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).
- (13) "Private compliance inspector" means the same as defined in G.S. 90A-71 (8)

*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	<del>Single Septic Tank, Conventional (Gravel) Gravity System</del>
II	<del>Grade I, plus:</del> <del>Single Septic Tank, Conventional (Gravel) Gravity System</del> 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, Systems of $\leq 1500$ gpd
III	<del>Grade II, plus:</del> <del>Dual pumps or Dual Siphons, Systems of <math>&gt;1500</math> gpd to <math>&lt;3000</math> gpd, Low Pressure Dispersal, Flow Equalization, and any system requiring ground water lowering with a pump</del>
IV	Grade III, II plus: Dual pumps or Dual Siphons, Low-Pressure Dispersal, Flow Equalization, and any system requiring ground water lowering with a pump, <del>Systems <math>&gt;3000</math> gpd, Systems <math>&gt;1500</math> gpd,</del> 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) Point of sale 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,  
POINT OF SALE INSPECTORS, PRIVATE COMPLIANCE  
INSPECTOR 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 point of sale 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 point of sale inspector;
  - (J) The contractor certification level requested;
  - (K) Certification number, if renewal;  
~~(K) Required certification fee or annual fee for level of certification;~~
  - (L) (L) Dates, locations, hours, and providers of required education and training;
  - (M) (M) Applicant signature; and
  - (N) (N) Social Security Number.
  - (O) Grade Level IV or Point of Sale Inspector verification of experience requirements
  - (P) Copy(ies) of attendance certificate(s) for required education received within twelve (12) months of date of application
  - (Q) Exam application; and
  - (R) Applicant signature
- (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~~ Copy(ies) of attendance certificate(s) for required education received within twelve (12) months of date of application;
  - (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 and
  - (Q) Exam application

(3) Applications for private compliance 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) Require certification fee;
- \_\_\_\_\_ (J) Copy(ies) of attendance certificate(s) for required education received within twelve (12) months of date of application;
- \_\_\_\_\_ (K) Copy of current Errors and Omission Policy and General Liability Policy declaration page, as required by G.S. 130A- 337(a2) (2);
- \_\_\_\_\_ (L) Verification of minimum of five years' experience as required in G. S. 90A-77 (a) (3d) c
- \_\_\_\_\_ (M) Applicant signature;
- \_\_\_\_\_ (N) Social Security Number and
- \_\_\_\_\_ (O) Exam application

(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) ~~(f)~~ 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) ~~(g)~~ 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 point of sale 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-~~ certification 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, POINT OF SALE INSPECTOR, PRIVATE COMPLIANCE INSPECTOR, OR EVALUATOR FEES

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

(a) ~~Application fees are as follows:~~

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) (a) Application fees shall not be pro-rated.
- (c) (b) The fee for re-instatement of a revoked or suspended certification is five hundred dollars (\$500.00).
- (d) (c) 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) (d) The fee for each returned check is twenty-five dollars (\$25.00).
- (g) (e) 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, POINT OF SALE INSPECTOR, PRIVATE COMPLIANCE INSPECTOR, OR EVALUATOR EXAMINATIONS

- (a) On-site wastewater contractor, point of sale inspector, private compliance inspector or evaluator examinations shall be comprehensive examinations that are standardized statewide.
- (b) The exam questions shall be specific to the grade-level certification being sought by the applicant.
- (c) Any applicant seeking a ~~combination certification~~ multiple certifications 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, point of sale inspector, private compliance 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.
- (d) No electronics, reference materials or bags shall be possessed by applicants in examination area.

*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, point of sale inspector, private compliance 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, point of sale inspector, private compliance 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, point of sale inspector, private compliance 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

<u>Point of Sale Inspector</u>	6
<u>Combination Certification Holders of Both Contractor Grade Level and Point of sale inspector</u>	6
Evaluator	12
<u>Private Compliance Inspector</u>	<u>12</u>

(b) The certified on-site wastewater contractor, point of sale inspector, private compliance 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, point of sale inspector, private compliance 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.

(e) PDH received annually in excess of required PDH shall not be carried forward for future requirements

(f) PDH shall expire fifteen (15) months after completion

(g) PDH received for all introduction courses shall expire twelve (12) months after completion.

*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, point of sale inspector, private compliance inspector, or evaluator activities and that enhance a contractor's, point of sale inspector's, private compliance inspector, or evaluator's knowledge of construction, installation, repair, evaluation 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, point of sale inspector, private compliance 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, II, IV, Point of sale inspector, ~~or level 4/Point of sale inspector~~); Combination Contractor Grade Level and- inspector, private compliance 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).

(d) Providers shall submit attendance rosters in excel format via email to the Board no later than then ten (10) business days after conclusion of course. Attendance roster shall contain only the following:

- (1) Attendee Last Name
- (2) Attendee First Name
- (3) Number of Credit Hours Received
- (4) Certification number for current certification held or "none" for new applicants
- (5) Name of Provider
- (6) Date of Class

( e ) Provider shall submit an email to the Board containing dates of class(es) scheduled a minimum of then (10) business prior to class date.

(f) Provider shall issue an attendance certificate to each attendee at conclusion of class. Attendance certificate may be electronic or printed.

*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, point of sale inspector, private compliance 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, point of sale inspector, private compliance 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, point of sale inspector, private compliance 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, point of sale inspector, private compliance 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, point of sale inspector, private compliance inspector, or evaluator could not reasonably be expected to comply with the Board's CE requirements, the contractor, point of sale inspector, private compliance 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, point of sale inspector, private compliance 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, point of sale 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, point of sale inspector, private compliance 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~~ multiple certifications, the Board may revoke or suspend either or ~~both~~ all 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, point of sale inspector, private compliance 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, point of sale inspector, or evaluator's file. The on-site wastewater contractor, point of sale inspector, private compliance 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, POINT OF SALE INSPECTOR, OR EVALUATOR CODE OF ETHICS

### 21 NCAC 39 .0801 CODE OF ETHICS

- (a) Contractors, point of sale inspectors, private compliance inspector, 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, point of sale inspectors, private compliance inspector, or evaluators in the discharge of their duties shall only be based on their education and experience.
- (c) No contractor, point of sale inspector, private compliance 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, point of sale inspector, private compliance 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, point of sale inspector, private compliance 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, point of sale inspector, private compliance 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 point of sale inspection, ~~an~~ point of sale inspector shall disclose to the client any interest the point of sale 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 point of sale 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) Before the execution of a contract to perform an on-site wastewater system private compliance inspection, the private compliance inspector shall disclose to the client any interest the private compliance inspector has in a business that may affect the client. No private compliance inspector shall allow his or her interest in any business to affect the quality or results of the private compliance inspection that the private compliance inspector may be called upon to perform.
- (k) Contractors shall not knowingly or willfully install a non-permitted system.
- (l) Contractors shall not knowingly or willfully install a system or any part of a system other than what is specified in the permit.
- (m) Contractors, point of sale inspectors, private compliance inspector, and evaluators shall not engage in false or misleading advertising, documentation, and reporting or otherwise misrepresent any matters to the public.
- (n) Contractors, point of sale inspectors, private compliance 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.
- (o) No point of sale inspector shall subcontract with another point of sale inspector for an on-site wastewater system inspection without the knowledge and signed consent of the client.
- (p) 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 or evaluator.
- (q) The evaluator of record shall be responsible for the work conducted by a subordinate.
- (r) 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
- (s) 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.
- (t) Employees of a local health department or DHHS shall not construct, install, evaluate, inspect or repair, or offer to construct, install, evaluate, inspect or repair, onsite wastewater systems outside of their employment with a local health department or DHHS.
- (u) Evaluators shall not perform duties of contractors, private compliance inspector or point of sale inspectors on any system on which they are the evaluator.
- (v) The private compliance inspector of record shall be responsible for the work conducted by a subordinate.

*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. July 1, 2021; 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.

## **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 POINT OF SALE 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 point of sale 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 point of sale 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 POINT OF SALE INSPECTORS**

- (a) Point of sale 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 point of sale 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 point of sale 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.*

- (a) Point of sale 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) Point of sale 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) Point of sale inspectors, private compliance 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 point of sale inspector, private compliance inspector, or contractor holds a valid occupational license in that field, in which case the point of sale inspector, private compliance inspector, or contractor shall inform the client that the point of sale inspector, private compliance 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 point of sale 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 point of sale 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 point of sale 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 point of sale 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 POINT OF SALE INSPECTION

(a) The point of sale 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 point of sale 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 point of sale 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.