

## 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, Authorized On-Site Wastewater Evaluators, private compliance inspectors, and point-of-sale 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; 2024-49, s. 4.4(a).)

#### **§ 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" is as defined 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); 2024-49, s. 4.4(a).)

**§ 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) Repealed by Session Laws 2024-49, s. 4.4(a), effective January 1, 2025.

- (7) 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.
- (8) 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; 2024-49, s. 4.4(a).)

**§ 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 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 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; 2024-49, s. 4.4(a).)

**§ 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 to an applicant who satisfies all of the following conditions:

- (1) Is at least 18 years of age.
- (2) Submits a properly completed application with all required supporting documents for the certification being applied for 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(I), 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 on-site 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(I); 2024-49, s. 4.4(a).)

**§ 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 Wastewater 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 expired 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. (2006-82, s. 1; 2024-49, s. 4.4(a).)

**§ 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 certifications 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. Request 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; 2024-49, s. 4.4(a).)

#### **§ 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. (2006-82, s. 1; 2024-49, s. 4.4(a).)

#### **§ 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 Wastewater 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); 2024-49, s. 4.4(a).)