

§ 130A-336.2. Alternative wastewater system approvals for nonengineered systems.

(a) Authorized On-Site Wastewater Evaluator. – An individual licensed as a soil scientist pursuant to Chapter 89F of the General Statutes and further certified under conditions developed and administered by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board may, at the direction of the owner of a proposed wastewater system, prepare signed and sealed soil and site evaluations, specifications, plans, and reports for the site layout, construction, operation, and maintenance of a wastewater system in accordance with this section and rules adopted pursuant to this section. An Authorized On-Site Wastewater Evaluator shall not perform any of the functions performed by a professional engineer for engineered wastewater systems described in G.S. 130A-336.1.

(b) Notice of Intent to Construct. – Prior to commencing or assisting in the construction, siting, relocation, or repair of a wastewater system, the owner of a proposed wastewater system who wishes to use an Authorized On-Site Wastewater Evaluator shall submit a complete Notice of Intent to Construct a wastewater system using an Authorized On-Site Wastewater Evaluator to the local health department with jurisdiction over the location of the proposed wastewater system. The owner may apply for a building permit for the project upon submitting a complete Notice of Intent to Construct and the fee required pursuant to subsection (n) of this section to the local health department. The North Carolina On-Site Wastewater Contractors and Inspectors Certification Board shall develop a common form for use as a Notice of Intent to Construct.

(c) Repealed by Session Laws 2023-90, s. 4, effective July 10, 2023.

(d) Soil and Site Evaluation, Construction, and Activities. –

(1) The Authorized On-Site Wastewater Evaluator shall use standards incorporated in recognized soil and siting practices in North Carolina. The evaluation and findings shall include, at a minimum, the information required in rules adopted by the Commission pursuant to G.S. 130A-335(e). An Authorized On-Site Wastewater Evaluator shall not form a direct business relationship with any technology that may result in a conflict of interest.

(2) The Authorized On-Site Wastewater Evaluator shall 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. For the purposes of this subdivision, "special inspection" means any continuous or intermittent inspection or visitation performed by the Authorized On-Site Wastewater Evaluator at the construction site on behalf of the owner.

(3) The Authorized On-Site Wastewater Evaluator shall assist the owner in the selection of an on-site wastewater system contractor who shall be under contractual obligation to the owner of the system and have sufficient errors and omissions, liability, or other insurance for the system constructed.

(4) The Authorized On-Site Wastewater Evaluator may assist in the construction, siting, relocation, or repair of any wastewater system described in G.S. 130A-343.

(5) Repealed by Session Laws 2023-90, s. 4, effective July 10, 2023.

(e) Responsibilities of the On-Site Wastewater System Contractor. – The on-site wastewater system contractor retained by the site owner shall do all of the following:

- (1) Be certified pursuant to Article 5 of Chapter 90A of the General Statutes.
- (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 Authorized On-Site Wastewater Evaluator.

- (3) Submit a signed and dated statement of responsibility to the owner of the wastewater system, prior to commencement of work, that contains acknowledgement of the requirements of the on-site wastewater system specified by the Authorized On-Site Wastewater Evaluator.

(f) **No Public Liability.** – The Department, the Department's authorized agents, and local health departments shall have no liability for wastewater systems developed by the Authorized On-Site Wastewater Evaluator; however, nothing in this section shall relieve the Department, the Department's authorized agents, and local health departments from any of their other obligations under State law or administrative rule.

(g) **Inspections, Construction Observations, and Reports.** –

- (1) Repealed by Session Laws 2023-90, s. 4, effective July 10, 2023.
- (2) An Authorized On-Site Wastewater Evaluator shall make periodic visits to the site to observe the progress and quality of the construction.
- (3) An Authorized On-Site Wastewater Evaluator may employ independent inspectors to observe and direct the construction of the wastewater system. Authorized On-Site Wastewater Evaluators shall be liable for any errors or omissions made by independent inspectors they employ or contract with.
- (4) All construction and inspection reports shall be signed by the authorized inspector or Authorized On-Site Wastewater Evaluator. Copies shall be furnished to the owner and the certified contractor and shall be included in the submittal package to the local health department.

(h) **Local Authority.** – Nothing in this section shall relieve the owner of the wastewater system from complying with all rules adopted by a local health department pursuant to G.S. 130A-335(c) that are in effect at the time the owner submits the Notice of Intent to Construct described in subsection (b) of this section. The local health department shall notify the owner of the wastewater system of any issues of compliance related to such modifications or additions.

(i) **Operation and Management.** –

- (1) An Authorized On-Site Wastewater Evaluator shall establish a written operation and management program based on the rules established for similar wastewater systems and shall provide this information to the owner of the system.
- (2) If necessary to comply with rules adopted by the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board, the owner shall 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.
- (3) The owner shall be responsible for the continued adherence to the operations and management program established by the Authorized On-Site Wastewater Evaluator pursuant to subdivision (1) of this subsection.

(j) **Post-Construction Conference.** – The Authorized On-Site Wastewater Evaluator shall hold a post-construction conference with the owner, the certified contractor, and the certified water pollution control system operator, if any. The post-construction conference shall include start-up and any required verification of system components.

(k) **Required Documents.** – At the post-construction conference, the Authorized On-Site Wastewater Evaluator shall provide the owner with the following documents:

- (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 under subdivision (1) of subsection (i) of this section.
- (3) Any reports and findings related to the evaluation, siting, and construction of the wastewater system.
- (4) The Authorization to Operate to be used for the certificate of occupancy for the facility.

(l) After reviewing the Authorized On-Site Wastewater Evaluator's report, the owner shall sign confirming acceptance and receipt of the report. The owner shall then submit the following to the local health department prior to receiving a Certificate of Occupancy from the appropriate inspection department:

- (1) A copy of the Authorized On-Site Wastewater Evaluator's report, including the Authorization to Operate.
- (2) A copy of the operations and management program established for the system by the Authorized On-Site Wastewater Evaluator.
- (3) Repealed by Session Laws 2024-1, s. 3.9(b), effective July 10, 2023.
- (4) A copy of the document confirming acceptance and receipt of the report by the owner.

(l1) The local health department shall date and stamp as received upon delivery of the documentation required pursuant to subsection (l) of this section by the owner or the owner's legal representative. The local health department shall notify the appropriate inspections department of the acceptance of the documentation and a Certificate of Occupancy shall be issued.

(m) Repealed by Session Laws 2023-90, s. 4, effective July 10, 2023.

(n) Fees. – The local health department may assess an administrative fee of no more than thirty-five dollars (\$35.00) for filing costs.

(o) Change in System Ownership. – A wastewater system authorized pursuant to this section shall not be affected by change of ownership of the site for the wastewater system. A Notice of Intent to Construct shall not be transferrable to a new owner without the written consent of the Authorized On-Site Wastewater Evaluator. A wastewater system's Authorization to Operate authorized pursuant to this section shall be transferred to a new owner.

(o1) Revocation. – A Notice of Intent to Construct or an Authorization to Operate issued by an Authorized On-Site Wastewater Evaluator under this section may be revoked by the Authorized On-Site Wastewater Evaluator that issued the Notice of Intent to Construct or the Authorization to Operate. The Authorized On-Site Wastewater Evaluator shall send written notification of the revocation to the owner, the licensed soil scientist, if applicable, the licensed geologist, if any, the certified contractor, the local health department, and the certified water pollution control system operator, if any. The Authorized On-Site Wastewater Evaluator shall cite the specific reason for the revocation in the written notification.

(o2) Repair of Malfunctioning Systems. – The owner may apply for an Improvement Permit and a Construction Authorization from the local health department or obtain a Notice of Intent to Construct to repair a malfunctioning wastewater system initially established under this section.

(p) Remedies. – Notwithstanding any other provision of law to the contrary, Authorized On-Site Wastewater Evaluators, certified contractors described in subsection (e) of this section, and certified water pollution control systems operators described in subdivision (2) of subsection (i) of this section shall be subject only to the disciplinary authority of their individual certifying boards.

(q) Rule Making. –

- (1) The North Carolina On-Site Wastewater Contractors and Inspectors Certification Board shall have the power to adopt rules to implement the provisions of this section.
 - (2) Notwithstanding any provision of law to the contrary, the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board shall have the exclusive authority to promulgate rules regarding certification of Authorized On-Site Wastewater Evaluators where review and seal of a professional engineer is not necessary pursuant to this section.
 - (3) The rules adopted by the Board for wastewater systems approved under the alternative wastewater system approvals for nonengineered system criteria pursuant to G.S. 130A-336.2 shall be, at a minimum, as stringent as the rules for wastewater systems established by the Commission.
- (r) Repealed by Session Laws 2023-90, s. 4, effective July 10, 2023. (2019-151, s. 14; 2022-11, s. 5(d); 2023-90, s. 4; 2024-1, s. 3.9(b), (d); 2024-49, s. 4.9(b), (d).)