

- 1 15A NCAC 18E .1204 (Advanced Pretreatment Drip Dispersal Systems)
2 15A NCAC 18E .1205 (Advanced Pretreatment Sand Lined Trench Systems)
3 15A NCAC 18E .1206 (Advanced Pretreatment Bed Systems)
4 15A NCAC 18E .1303 (Owner Responsibilities for Wastewater System Operation and
5 Maintenance)
6 15A NCAC 18E .1304 (Management Entity Responsibilities for Wastewater System
7 Operation and Maintenance)
8 15A NCAC 18E .1305 (Local Health Department Responsibilities for Wastewater System
9 Operation and Maintenance)
10 15A NCAC 18E .1306 (System Malfunction and Repair)
11 15A NCAC 18E .1307 (Wastewater System Abandonment)
12 15A NCAC 18E .1701 (General)
13 15A NCAC 18E .1702 (Application)
14 15A NCAC 18E .1703 (Department and Commission Application Review)
15 15A NCAC 18E .1704 (Approval Criteria for Provisional Systems)
16 15A NCAC 18E .1705 (Approval Criteria for Innovative Systems)
17 15A NCAC 18E .1706 (Approval Criteria for Accepted Systems)
18 15A NCAC 18E .1707 (Design and Installation Criteria for Provisional, Innovative, and
19 Accepted Approvals)
20 15A NCAC 18E .1709 (Wastewater Sampling Requirements for Advanced Pretreatment
21 Systems)
22 15A NCAC 18E .1710 (Compliance Criteria for Advanced Pretreatment Systems)
23 15A NCAC 18E .1711 (Provisional and Innovative Approval Renewal)
24 15A NCAC 18E .1712 (Authorized Designers, Installers, and Management Entities)
25 15A NCAC 18E .1713 (Local Health Department Responsibilities)

26 **SECTION 3.** Pursuant to G.S. 150B-21.3(b1) and S.L. 2015-147, the following
27 rules, as adopted by the North Carolina Commission for Public Health on August 8, 2018, are
28 disapproved:

- 29 15A NCAC 18E .0508 (Available Space)
30 15A NCAC 18E .1301 (Operation and Maintenance of Wastewater Systems)

31 **SECTION 4.** Pursuant to G.S. 150B-21.3(b1) and S.L. 2014-120, Section 47, the
32 following rule, as adopted by the North Carolina Commission for Public Health on August 8,
33 2018, is disapproved:

- 34 15A NCAC 18E .1708 (Modification, Suspension, and Revocation of Approvals)

35 **SECTION 5.** There is established the On-Site Wastewater Task Force (Task Force).

36 **SECTION 6.** The Task Force shall consist of 10 members, appointed as follows:

- 37 (1) One member from the North Carolina Division of Public Health, On-Site
38 Water Protection Branch.
39 (2) One member from the North Carolina Department of Environmental Quality.
40 (3) One member from the North Carolina Association of County Commissioners.
41 (4) One member from the North Carolina Home Builders Association.
42 (5) One member from the North Carolina On-Site Wastewater Contractor
43 Inspector Certification Board.
44 (6) One member from the Carolinas Association of General Contractors.
45 (7) One member from the North Carolina Septic Tank Association.
46 (8) One member from the Consulting Soil Scientists Association of North
47 Carolina.
48 (9) One member from the Professional Engineers of North Carolina with
49 experience in designing on-site wastewater systems.
50 (10) One member from the North Carolina Board for Licensing of Soil Scientists.

1 **SECTION 7.** The first meeting of the Task Force shall be held no later than October
2 31, 2019. The Task Force member from the North Carolina Home Builders Association shall
3 chair the first meeting of the Task Force. The permanent chair of the Task Force shall be elected
4 by a majority of the members of the Task Force present and voting at the first meeting. A majority
5 of the Task Force members shall constitute a quorum for the transaction of business. No action
6 may be taken except by a majority vote at a meeting at which a quorum is present.

7 **SECTION 8.** The Task Force may meet at various locations around the State in order
8 to promote greater public participation in its deliberations and to accommodate the travel
9 considerations of the members. The Legislative Services Commission shall grant adequate
10 meeting space to the Task Force in the State Legislative Building or the Legislative Office
11 Building. The Legislative Services Commission shall allocate from a portion of the funds
12 appropriated to the General Assembly sufficient funds for the operation of the Task Force. The
13 Task Force may contract for professional, clerical, or consultant services as provided by
14 G.S. 120-32.02. Members of the Task Force shall receive subsistence and travel expenses at the
15 rates provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

16 **SECTION 9.** The Task Force shall conduct a study and issue a report to recommend
17 new wastewater rules to the Commission of Public Health. In conducting this study, the Task
18 Force may collaborate with any stakeholders it deems appropriate. The report must make
19 recommendations for all of the following:

- 20 (1) New rules to replace the rules adopted by the Commission of Public Health
21 and approved by the Rules Review Commission, which were to be codified in
22 Chapter 18E of Title 15A of the North Carolina Administrative Code. The
23 new rule recommendations should replace the rules disapproved by Section 1
24 through Section 4 of this act, as well as any rules that meet all of the following
25 criteria: (i) adoption by the Commission of Public Health on August 8, 2018,
26 (ii) approval by the Rules Review Commission on October 18, 2018, or
27 November 15, 2018, (iii) codification in Chapter 18E of Title 15A of the North
28 Carolina Administrative Code, and (iv) relation to on-site wastewater
29 treatment and dispersal.
- 30 (2) New rules designed to prohibit municipalities from prohibiting the design and
31 installation of on-site wastewater treatment and dispersal systems.

32 **SECTION 10.** The Task Force shall transmit its report to the Joint Legislative
33 Oversight Committee on Agriculture and Natural and Economic Resources, the Environmental
34 Review Commission, the Joint Legislative Oversight Committee on Health and Human Services,
35 and the Commission for Public Health no later than February 1, 2020. The Task Force will
36 terminate on the earlier of the date it transmits its report or February 1, 2020.

37 **SECTION 11.** The rules for on-site wastewater treatment and dispersal found in
38 Chapter 18A of Title 15A of the North Carolina Administrative Code shall remain in effect until
39 the Commission for Public Health takes action on the recommendations made by the Task Force.

40 **SECTION 12.** Article 11 of Chapter 130A of the General Statutes is amended by
41 adding a new section to read:

42 **"§ 130A-336.2. Alternative wastewater system approvals for nonengineered systems.**

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

1 **(b) Notice of Intent to Construct.** – Prior to commencing or assisting in the construction,
2 siting, relocation, or repair of a wastewater system, the owner of a proposed wastewater system
3 who wishes to use an Authorized On-Site Wastewater Evaluator shall submit a notice of intent
4 to construct a wastewater system using an Authorized On-Site Wastewater Evaluator to the local
5 health department with jurisdiction over the location of the proposed wastewater system. The
6 Department of Health and Human Services shall develop a common form for use as a notice of
7 intent to construct that includes all of the following:

8 **(1)** The owner's name, e-mail address, mailing address, and phone number.

9 **(2)** The physical location of proposed site.

10 **(3)** Proof of errors and omissions, liability, or other insurance adequate for the
11 proposed wastewater system.

12 **(4)** A description of the facility the proposed site is to serve and any factors that
13 would affect the wastewater load.

14 **(5)** The type of wastewater system proposed.

15 **(6)** The estimated wastewater flow and wastewater characteristics.

16 **(7)** Any proposed landscape, site, drainage, or soil modifications.

17 **(8)** A soil evaluation that is conducted and signed and sealed by either a licensed
18 soil scientist or licensed geologist.

19 **(9)** A plat, as defined in G.S. 130A-334(7a).

20 **(c) Completeness Review for Notice of Intent to Construct.** – The local health department
21 shall determine whether the notice of intent to construct required pursuant to subsection (b) of
22 this section is complete within five business days after receiving the notice of intent to construct.
23 A determination of completeness means that the notice of intent to construct includes all of the
24 required components. If the local health department determines that the notice of intent to
25 construct is incomplete, the local health department shall notify the owner and list the information
26 needed to complete the notice. The owner may then submit additional information to the local
27 health department to cure the deficiencies in the initial notice. The local health department shall
28 make a final determination as to whether the notice of intent to construct is complete within five
29 business days after the department receives the additional information. If the local health
30 department fails to act within any time period set out in this subsection, the owner may treat the
31 failure to act as a determination of completeness.

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

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

40 **(2)** The Authorized On-Site Wastewater Evaluator shall prepare a signed and
41 sealed statement of special inspections that includes the following items:

42 **a.** The materials, systems, components, and work subject to special
43 inspections and testing.

44 **b.** The type, frequency, and extent of each special inspection and each
45 test. For the purposes of this subdivision, "special inspections" means
46 any continuous or intermittent inspection or visitation performed by
47 the Authorized On-Site Wastewater Evaluator at the construction site
48 on behalf of the owner.

49 **(3)** The Authorized On-Site Wastewater Evaluator shall assist the owner in the
50 selection of an on-site wastewater system contractor who shall be under

- 1 contractual obligation to the owner of the system and have sufficient errors
2 and omissions, liability, or other insurance for the system constructed.
- 3 (4) The Authorized On-Site Wastewater Evaluator may assist in the construction,
4 siting, relocation, or repair of any wastewater system described in
5 G.S. 130A-343.
- 6 (e) Responsibilities of the On-Site Wastewater System Contractor. – The on-site
7 wastewater system contractor retained by the site owner shall do all of the following:
- 8 (1) Be certified pursuant to Article 5 of Chapter 90A of the General Statutes.
9 (2) Be responsible for all aspects of the construction and installation of the
10 wastewater system and its components, including adherence to specifications
11 and any special inspections that are prepared, signed, and sealed by the
12 Authorized On-Site Wastewater Evaluator.
- 13 (3) Submit a signed and dated statement of responsibility to the owner of the
14 wastewater system, prior to commencement of work, that contains
15 acknowledgement of the requirements of the on-site wastewater system
16 specified by the Authorized On-Site Wastewater Evaluator.
- 17 (f) No Public Liability. – The Department, the Department's authorized agents, and local
18 health departments shall have no liability for wastewater systems developed by the Authorized
19 On-Site Wastewater Evaluator; however, nothing in this section shall relieve the Department, the
20 Department's authorized agents, and local health departments from any of their other obligations
21 under State law or administrative rule.
- 22 (g) Inspections, Construction Observations, and Reports. –
- 23 (1) A local health department may, at any time, conduct a site visit of the
24 wastewater system.
- 25 (2) An Authorized On-Site Wastewater Evaluator shall make periodic visits to the
26 site to observe the progress and quality of the construction.
- 27 (3) An Authorized On-Site Wastewater Evaluator may employ independent
28 inspectors to observe and direct the construction of the wastewater system.
29 Authorized On-Site Wastewater Evaluators shall be liable for any errors or
30 omissions made by independent inspectors they employ or contract with.
- 31 (4) All construction and inspection reports shall be signed by the authorized
32 inspector or Authorized On-Site Wastewater Evaluator. Copies shall be
33 furnished to the owner and the certified contractor and shall be included in the
34 submittal package to the local health department.
- 35 (h) Local Authority. – Nothing in this section shall relieve the owner of the wastewater
36 system from complying with all rules adopted by a local health department pursuant to
37 G.S. 130A-335(c) that are in effect at the time the owner submits the notice of intent to construct
38 described in subsection (b) of this section. The local health department shall notify the owner of
39 the wastewater system of any issues of compliance related to such modifications or additions.
- 40 (i) Operation and Management. –
- 41 (1) An Authorized On-Site Wastewater Evaluator shall establish a written
42 operation and management program based on the rules established for similar
43 wastewater systems and shall provide this information to the owner of the
44 system.
- 45 (2) If necessary to comply with rules adopted by the Commission, the owner shall
46 enter into a contract with a water pollution control system operator certified
47 pursuant to Part 1 of Article 3 of Chapter 90A of the General Statutes.
- 48 (3) The owner shall be responsible for the continued adherence to the operations
49 and management program established by the Authorized On-Site Wastewater
50 Evaluator pursuant to subdivision (1) of this subsection.

1 (j) Post-Construction Conference. – The Authorized On-Site Wastewater Evaluator shall
2 hold a post-construction conference with the owner, the certified contractor, the certified water
3 pollution control system operator, if any, and representatives from the local health department.
4 The post-construction conference shall include start-up and any required verification of system
5 components.

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

8 (1) A signed and sealed copy of reports on the soil and site evaluations, layouts,
9 drawings, specifications, and any special inspection reports or corrections
10 made during the construction of the system.

11 (2) The owner's operation and management program established for the specific
12 wastewater system under subdivision (1) of subsection (i) of this section.

13 (3) Any reports and findings related to the evaluation, siting, and construction of
14 the wastewater system.

15 (l) After reviewing the Authorized On-Site Wastewater Evaluator's report, the owner
16 shall sign and notarize a document confirming acceptance and receipt of the report. The owner
17 shall then submit the following to the local health department:

18 (1) A copy of the Authorized On-Site Wastewater Evaluator's report.

19 (2) A copy of the operations and management program established for the system
20 by the Authorized On-Site Wastewater Evaluator.

21 (3) The fee established pursuant to subsection (n) of this section.

22 (4) A notarized letter that documents the owner's acceptance of the system.

23 (m) Authorization to Operate. – Within five business days of receipt of the required
24 documents and fees described in subsection (l) of this section, the local health department shall
25 issue the owner an authorization to operate confirming all the requirements of this section have
26 been met and all rules adopted by the Commission pertaining to nonengineered on-site
27 wastewater systems have been complied with.

28 (n) Fees. – The local health department may assess a fee for the system developed by the
29 Authorized On-Site Wastewater Evaluator of up to thirty percent (30%) of the cumulative total
30 of the fees established for similar systems permitted by the local health department. The fee shall
31 only be used by the local health department in support of its work pursuant to duties established
32 by this section.

33 (o) Change in System Ownership. – A wastewater system authorized pursuant to this
34 section shall not be affected by change of ownership of the site for the wastewater system,
35 provided both the site for the wastewater system and the type of facility the system serves are
36 unchanged.

37 (p) Remedies. – Notwithstanding any other provision of law to the contrary, Authorized
38 On-Site Wastewater Evaluators, certified contractors described in subsection (e) of this section,
39 and certified pollution control systems operators described in subdivision (2) of subsection (i) of
40 this section shall be subject only to the disciplinary authority of their individual certifying boards.
41 An owner's remedies against Authorized On-Site Wastewater Evaluators, certified contractors
42 described in subsection (e) of this section, and certified pollution control systems operators
43 described in subdivision (2) of subsection (i) of this section shall be limited to the remedies
44 provided in the statutes and rules governing each individual professional.

45 (q) Rule Making. –

46 (1) The Commission shall have the power to adopt rules to implement the
47 provisions of this section.

48 (2) Notwithstanding any provision of law to the contrary, the North Carolina
49 On-Site Wastewater Contractors and Inspectors Certification Board shall have
50 the exclusive authority to promulgate rules regarding certification of and
51 issuance of permits for on-site wastewater treatment and dispersal systems in

1 instances where review by professional engineers is not necessary by
2 Authorized On-Site Wastewater Evaluators.

3 (r) Reports. – The Department shall report to the Environmental Review Commission
4 and the Joint Legislative Oversight Committee on Health and Human Services by January 1,
5 2020, and annually thereafter, on the program established under this section. The Department
6 shall specifically include the efficiency and effectiveness of the program developed under this
7 section and whether the program aided in reducing the length of time in issuing permits. The
8 Department shall obtain activity reports from the local health departments showing the
9 wastewater systems developed under this section. The annual report shall include any suggestions
10 for the improvement of this section, including adequate and appropriate insurance coverage,
11 operator reporting requirements, or fee allowance."

12 **SECTION 13.** This act is effective when it becomes law.