

1 **Chapter 90A.**
2 **Sanitarians and Water and Wastewater Treatment Facility Operators.**

3 Article 1.
4 Sanitarians.

5 **§§ 90A-1 through 90A-19: Repealed by Session Laws 1981 (Regular Session, 1982), c.**
6 **1274, s. 1.**

7
8 Article 2.
9 Certification of Water Treatment Facility Operators.

10 **§ 90A-20. Purpose.**

11 It is the purpose of this Article to protect the public health and to conserve and protect the
12 water resources of the State; to protect the public investment in water treatment facilities; to
13 provide for the classifying of public water treatment facilities; to require the examination of
14 water treatment facility operators and the certification of their competency to supervise the
15 operation of water treatment facilities; and to establish the procedures for such classification
16 and certification. Further, it is the purpose of this Article to provide for the certification of
17 personnel operating the distribution portion of a water treatment facility. (1969, c. 1059, s. 2;
18 1989, c. 227, s. 1.)

19
20 **§ 90A-20.1. Definitions.**

21 In this Article, unless the context clearly requires otherwise, the following definitions
22 apply:

- 23 (1) "Board" or "Board of Certification" means the Water Treatment Facility
24 Operators Board of Certification.
25 (2) "Operator" means a person who operates, maintains or inspects water
26 treatment facilities.
27 (3) "Operator in responsible charge" means a person designated by the owner of
28 the water treatment facility to be responsible for the total operation and
29 maintenance of the facility.
30 (4) "Public water system" means a system for the provision of piped water for
31 human consumption as defined in G.S. 130A-313(10).
32 (5) "Unit of local government" means a county, city, consolidated city-county,
33 sanitary district or other local political subdivision, authority or agency of
34 local government.
35 (6) "Water treatment facility" means any facility or facilities used or available
36 for use in the collection, treatment, testing, storage, pumping, or distribution
37 of water for a public water system. (1989, c. 227, s. 2.)
38

39 **§ 90A-21. Water Treatment Facility Operators Board of Certification.**

40 (a) Board Membership. – There is hereby established within the Department of
41 Environment and Natural Resources a Water Treatment Facility Operators Board of
42 Certification (hereinafter termed the "Board of Certification") composed of eight members to
43 be appointed by the Governor as follows:

- 44 (1) One member who is currently employed as a water treatment facility
45 operator;
46 (2) One member who is manager of a North Carolina municipality using a
47 surface water supply;
48 (3) One member who is manager of a North Carolina municipality using a
49 treated groundwater supply;
50 (4) One member who is employed as a director of utilities, water superintendent,
51 or equivalent position with a North Carolina municipality;

- 1 (5) One member employed by a private water utility or private industry and who
2 is responsible for the operation or supervision of a water supply and
3 treatment facility;
4 (6) One member who is a faculty member of a four-year college or university
5 whose major field is related to water supply;
6 (7) One member employed by the Department of Environment and Natural
7 Resources and working in the field of water supply;
8 (8) One member not certified or regulated under this Article, who shall represent
9 the interest of the public at large.

10 (b) Terms of Office. – All members serving on the Board on June 30, 1981, shall
11 complete their respective terms. No member appointed to the Board on or after July 1, 1981,
12 shall serve more than two complete consecutive three-year terms, except that the member
13 employed by the Department of Environment and Natural Resources may serve more than two
14 consecutive terms, and except that each member shall serve until his successor is appointed and
15 qualifies. The Governor may remove any member for good cause shown and shall appoint
16 members to fill unexpired terms. The Governor shall appoint the public member not later than
17 July 1, 1981.

18 (c) Powers and Responsibilities. – The Board of Certification shall establish all rules,
19 regulations and procedures with respect to the certification program and advise and assist the
20 Secretary of Environment and Natural Resources in its administration.

21 (d) Compensation. – Members of the Board of Certification who are officers or
22 employees of State agencies or institutions shall receive subsistence and travel allowances at
23 the rates authorized by G.S. 138-5.

24 (e) Officers. – The Board shall elect a chairman and all other necessary officers to serve
25 one-year terms. A majority of the members of the Board shall constitute a quorum for the
26 transaction of business.

27 (f) Annual Report. – The Board shall report annually to the Governor a full statement
28 of its disciplinary and enforcement programs and activities during the year, together with such
29 recommendations as it may deem expedient. (1969, c. 1059, s. 2; 1973, c. 476, s. 128; 1981, c.
30 616, ss. 1-5; 1989, c. 727, s. 219(7); 1997-443, s. 11A.24.)

31
32 **§ 90A-22. Classification of water treatment facilities; notification of users.**

33 (a) On or before July 1, 1982, the Board of Certification, with the advice and assistance
34 of the Secretary of Environment and Natural Resources, shall classify all surface water
35 treatment facilities and all facilities for treating groundwater supplies that are used, or intended
36 for use, as part of a public water supply system with due regard for the size of the facility, its
37 type, character of water to be treated, other physical conditions affecting the treatment of the
38 water, and with respect to the degree of skill, knowledge, and experience that the operator
39 responsible for the water treatment facility must have to supervise successfully the operation of
40 the facilities so as to adequately protect the public health.

41 (b) The Board shall notify users of such facilities when any classification of a facility
42 by the Board would result in a certified operator's not being required to supervise the operation
43 of that facility. Any user so notified may demand a hearing on the Board's decision, and that
44 hearing and any appeal therefrom shall be conducted in accordance with Articles 3 and 4 of
45 Chapter 150B of the General Statutes. (1969, c. 1059, s. 2; 1973, c. 476, s. 128; 1981, c. 616, s.
46 6; 1987, c. 827, ss. 1, 230; 1989, c. 727, s. 219(8); 1997-443, s. 11A.25.)

47
48 **§ 90A-23. Grades of certificates.**

49 The Board of Certification, with the advice and assistance of the Secretary of Environment
50 and Natural Resources, shall establish grades of certification for water treatment facility

1 operators corresponding to the classification of water treatment facilities. (1969, c. 1059, s. 2;
2 1973, c. 476, s. 128; 1989, c. 227, s. 3; c. 727, s. 219(9); 1997-443, s. 11A.26.)

3
4 **§ 90A-24. Operator qualifications and examination.**

5 The Board of Certification, with the advice and assistance of the Secretary of Environment
6 and Natural Resources shall establish minimum requirements of education, experience and
7 knowledge for each grade of certification for water treatment facility operators, and shall
8 establish procedures for receiving applications for certification, conducting examinations and
9 making investigations of applicants as may be necessary and appropriate to the end that prompt
10 and fair consideration be given every application and the water treatment facilities of the State
11 may be adequately supervised by certified operators. (1969, c. 1059, s. 2; 1973, c. 476, s. 128;
12 1989, c. 727, s. 219(10); 1997-443, s. 11A.27.)

13
14 **§ 90A-25. Issuance of certificates.**

15 (a) The Board shall issue a certificate to an applicant who meets the requirements for
16 certification and pays the required fee. The certificate shall state the grade of certification
17 appropriate for the classification of water treatment facilities the applicant is qualified to
18 operate.

19 (b) Certificates may be issued, without examination, in a comparable grade to any
20 person who holds a certificate in any state, territory or possession of the United States, if in the
21 judgment of the Board of Certification the requirements for operators under which the person's
22 certificate was issued do not conflict with the provisions of this Article, and are of a standard
23 not lower than that specified under rules and regulations adopted under this Article.

24 (c) Certificates in an appropriate grade will be issued to operators who, on July 1, 1969,
25 hold certificates of competency issued under the voluntary certification program now being
26 administered through the Department of Environment and Natural Resources with the
27 cooperation of the North Carolina Water Works Operators Association, the North Carolina
28 Section of the American Water Works Association, and the North Carolina League of
29 Municipalities.

30 (d) Certificates in an appropriate grade will be issued without examination to any
31 person or persons certified by the governing board in the case of a city, town, county, sanitary
32 district, or other political subdivision, or by the owner in the case of a private utility or industry,
33 to have been in responsible charge of its water treatment facilities on the date the Board of
34 Certification notifies the governing board, or owner, of the classification of its water treatment
35 facility, provided the facility was classified before July 1, 1981, and provided the application
36 for such certification is made within one year of the date of notification. A certificate so issued
37 will be valid for use by the holder only in the water treatment facility in which he was
38 employed at the time of his certification. No certificate shall be issued under this subsection to
39 any operator of any water treatment facility classified by the board on or after July 1, 1981.

40 (e) Temporary certificates in any grade may be issued without examination to any
41 person employed as a water treatment facility operator when the Board of Certification finds
42 that the supply of certified operators, or persons with training necessary to certification, is
43 inadequate. Temporary certificates shall be valid for only one year. Temporary certificates may
44 be issued with such special conditions or requirements relating to the place of employment of
45 the person holding the certificate, his supervision on a consulting or advisory basis, or other
46 matters as the Board of Certification may deem necessary to protect the public health. No
47 temporary certificate may be renewed more than one time either by any operator at the same
48 grade level or by any operator for employment at the same water treatment facility. (1969, c.
49 1059, s. 2; 1973, c. 476, s. 128; 1981, c. 616, ss. 7, 8; 1989, c. 727, s. 18; 1991, c. 321, s. 1;
50 1997-443, s. 11A.28.)

1 **§ 90A-25.1. Renewal of certificate.**

2 A certificate expires on December 31 of the year in which it is issued or renewed. The
3 Board, with the advice and assistance of the Secretary of Environment and Natural Resources,
4 may establish minimum continuing education requirements that an applicant must meet to
5 renew a certificate. The Board shall renew a certificate if the applicant meets the continuing
6 education requirements imposed as a condition for renewal, pays the required renewal fee plus
7 any renewal fees in arrears, and, if the application is late, pays the late penalty. (1991, c. 321, s.
8 2; 1997-443, s. 11A.29.)
9

10 **§ 90A-26. Revocation or suspension of certificate.**

11 The Board of Certification, in accordance with the procedure set forth in Chapter 150B of
12 the General Statutes of North Carolina, may issue a reprimand to an operator, or suspend or
13 revoke the certificate of an operator, when it finds any of the following:

- 14 (1) The operator has practiced fraud or deception.
- 15 (2) The operator failed to use reasonable care, judgment, knowledge, or ability
16 in the performance of an operator's duties.
- 17 (3) The operator is incompetent or unable to properly perform the duties of an
18 operator.
- 19 (4) The operator has failed to comply with the requirements for certification or
20 renewal of certification. (1969, c. 1059, s. 2; 1973, c. 1331, s. 3; 1981, c.
21 616, s. 9; 1987, c. 827, s. 1; 1991, c. 321, s. 3.)
22

23 **§ 90A-27. Application fee.**

24 The Board may establish a schedule of fees for the issuance or renewal of a certificate to
25 cover the costs of administering the certification programs. The fee for issuing or renewing a
26 certificate may not exceed fifty dollars (\$50.00). The Board may impose a penalty not to
27 exceed thirty dollars (\$30.00) for the late renewal of a certificate. (1969, c. 1059, s. 2; 1981, c.
28 562, s. 1; 1991, c. 321, s. 4.)
29

30 **§ 90A-28. Promotion of training and other powers.**

31 The Board of Certification and the Secretary of Environment and Natural Resources may
32 take all necessary and appropriate steps in order to effectively and fairly achieve the purposes
33 of this Article, including, but not limited to, the providing of training for operators and
34 cooperating with educational institutions and private and public associations, persons, or
35 corporations in the promotion of training for water treatment facility personnel. (1969, c. 1059,
36 s. 2; 1973, c. 476, s. 128; 1989, c. 727, s. 219(11); 1997-443, s. 11A.30.)
37

38 **§ 90A-29. Certified operators required.**

39 (a) On and after July 1, 1971, every person, corporation, company, association,
40 partnership, unit of local government, State agency, federal agency, or other legal entity
41 owning or having control of a water treatment facility shall have the obligation of assuring that
42 the operator in responsible charge of such facility is duly certified by the Board of Certification
43 under the provisions of this Article.

44 (b) No person, after July 1, 1971, shall perform the duties of an operator, in responsible
45 charge of a water treatment facility, without being duly certified under the provisions of this
46 Article. (1969, c. 1059, s. 2; 1981, c. 616, s. 10; 1989, c. 227, s. 4.)
47

48 **§ 90A-30. Penalties; remedies; contested cases.**

49 (a) Upon the recommendation of the Board of Certification, the Secretary of
50 Environment and Natural Resources or a delegated representative may impose an
51 administrative, civil penalty on any person, corporation, company, association, partnership, unit

1 of local government, State agency, federal agency, or other legal entity who violates G.S.
2 90A-29(a). Each day of a continued violation shall constitute a separate violation. The penalty
3 shall not exceed one hundred dollars (\$100.00) for each day such violation continues. No
4 penalty shall be assessed until the person alleged to be in violation has been notified of the
5 violation.

6 The clear proceeds of penalties imposed pursuant to this section shall be remitted to the
7 Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

8 (b) Any person wishing to contest a penalty issued under this section shall be entitled to
9 an administrative hearing and judicial review conducted according to the procedures outlined in
10 Articles 3 and 4 of Chapter 150B of the General Statutes.

11 (c) The Secretary may bring a civil action in the superior court of the county in which
12 the violation is alleged to have occurred to recover the amount of the administrative penalty
13 whenever an owner or person in control of a water treatment facility

14 (1) Who has not requested an administrative hearing fails to pay the penalty
15 within 60 days after being notified of such penalty, or

16 (2) Who has requested an administrative hearing fails to pay the penalty within
17 60 days after service of a written copy of the decision as provided in G.S.
18 150B-36.

19 (d) Notwithstanding any other provision of law, this section imposes the only penalty or
20 sanction, civil or criminal, for violations of G.S. 90A-29(a) or for the failure to meet any other
21 legal requirement for a water system to have a certified operator in responsible charge. (1981,
22 c. 616, s. 11; 1987, c. 827, s. 231; 1989, c. 227, s. 5; c. 727, s. 219(12); 1989 (Reg. Sess.,
23 1990), c. 1024, s. 18; 1997-443, s. 11A.31; 1998-215, s. 45.)

24 25 **§ 90A-31. Commercial water treatment operation firms.**

26 (a) Every person, corporation, company, association, partnership, unit of local
27 government, State agency, federal agency, or other legal entity owning or having control of a
28 water treatment facility may contract with a responsible commercial water treatment facility
29 operation firm for operational and other services of that firm. The owner with the firm's
30 consent may designate an employee of that contracting firm as the operator in responsible
31 charge. This designee and other licensed employees of the firm shall be responsible for the
32 total operation and maintenance of the water treatment facility, and shall be limited as to the
33 number of facilities, distance between facilities, and frequency of visits as can reasonably be
34 handled during the ordinary course of business as well as during emergencies. Contractual
35 firms shall not be limited as to the number of facilities, distance between facilities, location of
36 office or other internal management procedures.

37 (b) Any operator in responsible charge shall obtain certification from the Water
38 Treatment Facility Operators Board of Certification and shall comply with all of the
39 requirements specified in Chapter 90A and the rules and reasonable standards of the Board,
40 applicable to all operators in responsible charge, designed to assure satisfactory operation of
41 water treatment facilities. (1985, c. 550, s. 1; 1989, c. 227, s. 6.)

42 43 **§ 90A-32. Certification of distribution operators.**

44 The Board of Certification shall have the authority to establish certification programs for
45 personnel who operate the distribution portion of a water treatment facility. The Board may
46 provide for voluntary or mandatory certification and may provide requirements for training,
47 education, and experience of personnel to be certified. The owner of a water treatment facility
48 shall have three years to obtain certification or the services of appropriately certified
49 distribution personnel after the effective date of mandatory certification. (1989, c. 227, s. 7.)

50 51 **§ 90A-33. Reserved for future codification purposes.**

1
2 **§ 90A-34. Reserved for future codification purposes.**
3

4 Article 3.

5 Certification of Water Pollution Control System Operators and Animal Waste Management
6 System Operators.

7 Part 1. Certification of Water Pollution Control System Operators.

8 **§ 90A-35. Purpose.**

9 It is the purpose of this Article to protect the public health and to conserve and protect the
10 quality of the water resources of the State and maintain the quality of receiving waters as
11 assigned by the North Carolina Environmental Management Commission; to protect the public
12 investment in water pollution control systems; to provide for the classification of water
13 pollution control systems; to require the examination of water pollution control system
14 operators and the certification of their competency to supervise the operation of such systems;
15 and to establish procedures for such classification and certification. (1969, c. 1059, s. 3; 1973,
16 c. 1262, s. 23; 1991, c. 623, ss. 1, 3; 1995 (Reg. Sess., 1996), c. 626, s. 6(a).)
17

18 **§ 90A-36. Repealed by Session Laws 1973, c. 1262, s. 44.**
19

20 **§ 90A-37. Classification of water pollution control systems.**

21 The Commission, with the advice and assistance of the Secretary of Environment and
22 Natural Resources, shall classify all water pollution control systems. In making the
23 classification, the Commission shall give due regard, among other factors, to the size of the
24 system, the nature of the wastes to be treated or removed from the wastewater, the treatment
25 process to be employed, and the degrees of skill, knowledge and experience that the operator of
26 the water pollution control system must have to supervise the operation of the system so as to
27 adequately protect the public health and maintain the water quality standards of the receiving
28 waters as assigned by the North Carolina Environmental Management Commission. (1969, c.
29 1059, s. 3; 1973, c. 1262, s. 23; 1977, c. 771, s. 4; 1979, c. 554, ss. 1, 2; 1989, c. 727, s.
30 218(23); 1991, c. 623, ss. 1, 4; 1997-443, s. 11A.119(a).)
31

32 **§ 90A-38. Grades of certificates.**

33 (a) The Commission, with the advice and assistance of the Secretary of Environment
34 and Natural Resources, shall establish grades and types of certification for water pollution
35 control system operators corresponding to the classification of water pollution control systems.
36 The grades of certification shall be ranked so that a person holding a certification in the highest
37 grade is thereby affirmed competent to operate water pollution control systems of that type in
38 the highest classification and any water pollution control system of that type in a lower
39 classification; a person holding a certification in the next highest grade is affirmed as
40 competent to operate water pollution control systems in the next-to-the-highest classification of
41 that type and any lower classification of that type; and in a like manner through the range of
42 grades of certification and classification of water pollution control systems.

43 (b) No certificate shall be required under this Article to operate a conventional septic
44 tank system. For purposes of this section, "conventional septic tank system" means a subsurface
45 sanitary sewage system consisting of a settling tank and a subsurface disposal field without a
46 pump or other appurtenances. (1969, c. 1059, s. 3; 1973, c. 1262, s. 23; 1977, c. 771, s. 4; 1979,
47 c. 554, s. 2; 1989, c. 727, s. 218(24); 1991, c. 623, ss. 1, 5; 1997-443, s. 11A.119(a).)
48

49 **§ 90A-39. Operator qualifications and examination.**

50 The Commission, with the advice and assistance of the Secretary of Environment and
51 Natural Resources, shall establish minimum requirements of education, experience, and

1 knowledge for each grade of certification for water pollution control facility operators and shall
2 establish procedures for receiving applications for certification, conducting examinations, and
3 making investigations of applicants as may be necessary and appropriate to the end that prompt
4 and fair consideration be given every applicant and that the water pollution control systems
5 within the State may be adequately supervised by certified operators. (1969, c. 1059, s. 3; 1973,
6 c. 1262, s. 23; 1977, c. 771, s. 4; 1979, c. 554, s. 2; 1989, c. 727, s. 218(25); 1991, c. 623, ss. 1,
7 6; 1997-443, s. 11A.119(a.)

8
9 **§ 90A-40. Issuance of certificates.**

10 (a) An applicant, upon meeting satisfactorily the appropriate requirements, shall be
11 issued a suitable certificate by the Commission designating the level of his competency. Once
12 issued, a certificate shall be valid unless:

- 13 (1) The certificate holder voluntarily surrenders the certificate to the
14 Commission;
15 (2) The certificate is replaced by one of a higher grade;
16 (3) The certificate is revoked by the Commission for cause; or
17 (4) The certificate holder fails to pay the annual renewal fee when due.

18 (b) A certificate may be issued in an appropriate grade without examination to any
19 person who is properly registered on the "National Association of Boards of Certification"
20 reciprocal registry and who meets all other requirements of rules adopted under this Article.

21 (c) Repealed by Session Laws 1987, c. 582, s. 2.

22 (d) Repealed by Session Laws 1991, c. 623, s. 7.

23 (e) Temporary certificates in an appropriate grade may be issued without examination
24 to any person employed as a water pollution control system operator when the Commission
25 finds that the supply of certified operators or persons with training and experience necessary for
26 certification is inadequate. Temporary certificates shall be valid for only one year, but may be
27 renewed. Temporary certificates may be issued with such special conditions or requirements
28 relating to the place of employment of the person holding the certificate, his supervision on a
29 consulting or advisory basis, or other matters as the Commission may deem necessary to
30 protect the public health and maintain the water quality standards of the receiving waters as
31 assigned by the North Carolina Environmental Management Commission.

32 (f) Certificates in an appropriate grade and type may be issued without examination to
33 water pollution control system operators who on 1 January 1992 hold certificates of
34 competency issued under the voluntary certification program administered by the North
35 Carolina Water Pollution Control Association. (1969, c. 1059, s. 3; 1973, c. 476, s. 128; c.
36 1262, s. 23; 1979, c. 554, ss. 2-4; 1987, c. 582, ss. 1, 2; 1991, c. 623, ss. 1, 7.)

37
38 **§ 90A-41. Revocation of certificate.**

39 The Commission, in accordance with the procedure set forth in Chapter 150B of the
40 General Statutes, may suspend or revoke a certificate or may issue a written reprimand to an
41 operator if it finds that the operator has practiced fraud or deception; that reasonable care,
42 judgment, or the application of his knowledge or ability was not used in the performance of his
43 duties; or that the operator is incompetent or unable to properly perform his duties. (1969, c.
44 1059, s. 3; 1973, c. 1331, s. 3; 1979, c. 554, s. 2; 1987, c. 827, s. 1; 1991, c. 623, ss. 1, 8.)

45
46 **§ 90A-42. Fees.**

47 (a) The Commission, in establishing procedures for implementing the requirements of
48 this Article, shall impose the following schedule of fees:

- 49 (1) Examination including Certificate, \$85.00;
50 (2) Temporary Certificate, \$200.00;
51 (3) Temporary Certification Renewal, \$300.00;

- 1 (4) Conditional Certificate, \$75.00;
2 (5) Repealed by Session Laws 1987, c. 582, s. 3.
3 (6) Reciprocity Certificate, \$100.00;
4 (6a) Voluntary Conversion Certificate, \$50.00;
5 (7) Annual Renewal, \$50.00;
6 (8) Replacement of Certificate, \$20.00;
7 (9) Late Payment of Annual Renewal, \$50.00 penalty in addition to all current
8 and past due annual renewal fees plus one hundred dollars (\$100.00) penalty
9 per year for each year for which annual renewal fees were not paid prior to
10 the current year; and
11 (10) Mailing List Charges – The Commission may provide mailing lists of
12 certified water pollution control system operators and of water pollution
13 control system operators to persons who request such lists. The charge for
14 such lists shall be twenty-five dollars (\$25.00) for each such list provided.

15 (b) The Water Pollution Control System Account is established as a nonreverting
16 account within the Department. Fees collected under this section shall be credited to the
17 Account and applied to the costs of administering this Article. (1969, c. 1059, s. 3; 1979, c.
18 554, s. 5; 1981, c. 361, ss. 1-4; 1987, c. 582, s. 3; 1989, c. 372, s. 7; 1989 (Reg. Sess., 1990), c.
19 850, s. 1; 1991, c. 623, ss. 1, 9; 1991 (Reg. Sess., 1992), c. 1039, s. 1; 1998-212, s. 29A.11(e);
20 2007-323, s. 30.3(c).)

21
22 **§ 90A-43. Promotion of training and other powers.**

23 The Commission and the Secretary of Environment and Natural Resources are authorized to
24 take all necessary and appropriate steps in order to effectively and fairly achieve the purposes
25 of this Article, including, but not limited to, the providing of training for water pollution control
26 system operators and cooperating with educational institutions and private and public
27 associations, persons, or corporations in the promotion of training for water pollution control
28 system personnel. (1969, c. 1059, s. 3; 1973, c. 1262, s. 23; 1977, c. 771, s. 4; 1979, c. 554, s.
29 2; 1989, c. 727, s. 218(26); 1991, c. 623, ss. 1, 10; 1997-443, s. 11A.119(a).)

30
31 **§ 90A-44. Certified operators required.**

32 No person, firm, or corporation, municipal or private, owning or having control of a water
33 pollution control system for which a certified operator is required under rules adopted by the
34 Commission shall allow such system to be operated by any person who does not hold a
35 currently valid certificate in an appropriate grade and type issued by the Commission. No
36 person shall perform the duties of a water pollution control system operator in responsible
37 charge without being duly certified under the provisions of this Article. No person shall
38 perform the duties of a water pollution control system operator who has not paid all fees
39 required under this Article. (1969, c. 1059, s. 3; 1979, c. 554, s. 2; 1991, c. 623, s. 11.)

40
41 **§ 90A-45. Commercial water pollution control system operating firms.**

42 (a) Any person, firm, or corporation, municipal or private, owning or having control of
43 a water pollution control system may contract with a responsible commercial water pollution
44 control system operating firm for operational and other services of that firm. Such firm shall
45 designate an employee as the operator in responsible charge of the water pollution control
46 system. Such employee and any other employees who have been duly certified under this
47 Article shall be responsible for the total operation and maintenance of the water pollution
48 control system. Commercial water pollution control system operating firms shall not be limited
49 as to the number of systems, distance between systems, location of office or residence, or other
50 internal management procedures.

1 (b) Any employee designated by the firm as operator in responsible charge must hold
2 an appropriate certificate issued by the Commission and must comply with all of the
3 requirements of this Article and rules adopted by the Commission.

4 (c) The Commission may adopt rules requiring that any commercial water pollution
5 control system operating firm file an annual report with the Commission as to the operation of
6 such system. (1983, c. 489, s. 1; 1991, c. 623, ss. 1, 12.)
7

8 **§ 90A-46. Definitions.**

9 The following definitions shall apply throughout this Article:

- 10 (1) "Commercial water pollution control system operating firm" means a person
11 who contracts to operate a water pollution control system for any person
12 who holds a permit for a water pollution control system, other than an
13 employee of the permittee.
- 14 (2) "Commission" means the Water Pollution Control System Operators
15 Certification Commission.
- 16 (3) "Waste" has the same meaning as in G.S. 143-213.
- 17 (4) "Operator" means a person who holds a currently valid certificate as a water
18 pollution control system operator issued by the Commission under rules
19 adopted pursuant to this Article.
- 20 (5) "Operator in responsible charge" means the person designated by a person
21 owning or having control of a water pollution control system as the operator
22 of record of the water pollution control system and who has primary
23 responsibility for the operation of such system.
- 24 (6) "Water pollution control system" means a system for the collection,
25 treatment, or disposal of waste for which a permit is required under rules
26 adopted by either the North Carolina Environmental Management
27 Commission or the Commission for Public Health. (1991, c. 623, s. 13;
28 2007-182, s. 2.)
29

30 **§ 90A-46.1. Expiration and renewal of certificates; continuing education requirements.**

31 A certificate issued under this Part expires on 31 December of the year in which it is issued
32 or renewed. The Commission may establish minimum continuing education requirements that
33 an applicant must meet to renew a certificate. The Commission shall renew a certificate if the
34 applicant meets the continuing education requirement and pays the required renewal fee, any
35 renewal fee in arrears, and any late application penalty. (1997-496, s. 1.)
36

37 **Part 2. Certification of Animal Waste Management System Operators.**

38 **§ 90A-47. Purpose.**

39 The purpose of this Part is to reduce nonpoint source pollution in order to protect the public
40 health and to conserve and protect the quality of the State's water resources, to encourage the
41 development and improvement of the State's agricultural land for the production of food and
42 other agricultural products, and to require the examination of animal waste management system
43 operators and certification of their competency to operate or supervise the operation of those
44 systems. (1995 (Reg. Sess., 1996), c. 626, s. 6(b).)
45

46 **§ 90A-47.1. Definitions.**

47 (a) As used in this Part:

- 48 (1) "Animal waste" means liquid residuals resulting from an animal operation
49 that are collected, treated, stored, or applied to the land through an animal
50 waste management system.

- 1 (2) "Application" means laying, spreading on, irrigating, or injecting animal
2 waste onto land.
- 3 (3) "Commission" means the Water Pollution Control System Operators
4 Certification Commission.
- 5 (4) "Operator in charge" means a person who holds a currently valid certificate
6 to operate an animal waste management system and who has primary
7 responsibility for the operation of the system.
- 8 (5) "Owner" means the person who owns or controls the land used for
9 agricultural purposes or the person's lessee or designee.

10 (b) The definitions set out in G.S. 143-215.10B, other than the definition of "animal
11 waste", apply to this Part. (1995 (Reg. Sess., 1996), c. 626, s. 6(b).)

12
13 **§ 90A-47.2. Certified operator in charge required; qualifications for certification.**

14 (a) No owner or other person in control of an animal operation having an animal waste
15 management system shall allow the system to be operated by a person who does not hold a
16 valid certificate as an operator in charge of an animal waste management system issued by the
17 Commission. No person shall perform the duties of an operator in charge of an animal waste
18 management system without being certified under the provisions of this Part. Other persons
19 may assist in the operation of an animal waste management system so long as they are directly
20 supervised by an operator in charge who is certified under this Part.

21 (b) The owner or other person in control of an animal operation may contract with a
22 certified animal waste management system operator in charge to provide for the operation of
23 the animal waste management system at that animal operation. The Commission may adopt
24 rules requiring that any certified animal waste management system operator in charge who
25 contracts with one or more owners or other persons in control of an animal operation file an
26 annual report with the Commission as to the operation of each system at which the services of
27 the operator in charge are provided. (1995 (Reg. Sess., 1996), c. 626, s. 6(b).)

28
29 **§ 90A-47.3. Qualifications for certification; training; examination.**

30 (a) The Commission shall develop and administer a certification program for animal
31 waste management system operators in charge that provides for receipt of applications, training
32 and examination of applicants, and investigation of the qualifications of applicants.

33 (b) The Commission, in cooperation with the Division of Water Quality of the
34 Department of Environment and Natural Resources, and the Cooperative Extension Service,
35 shall develop and administer a training program for animal waste management system
36 operators in charge. An applicant for initial certification shall complete 10 hours of classroom
37 instruction prior to taking the examination. In order to remain certified, an animal waste
38 management system operator in charge shall complete six hours of approved additional training
39 during each three-year period following initial certification. A certified animal waste
40 management system operator in charge who fails to complete approved additional training
41 within 30 days of the end of the three-year period shall take and pass the examination for
42 certification in order to renew the certificate. (1995 (Reg. Sess., 1996), c. 626, s. 6(b); 1996,
43 2nd Ex. Sess., c. 18, s. 27.34(c); 1997-443, s. 11A.119(a).)

44
45 **§ 90A-47.4. Fees; certificate renewals.**

46 (a) An applicant for certification under this Part shall pay a fee of twenty-five dollars
47 (\$25.00) for the examination and the certificate.

48 (b) The certificate shall be renewed annually upon payment of a renewal fee of ten
49 dollars (\$10.00). A certificate holder who fails to renew the certificate and pay the renewal fee
50 within 30 days of its expiration shall be required to take and pass the examination for

1 certification in order to renew the certificate. (1995 (Reg. Sess., 1996), c. 626, s. 6(b);
2 1998-212, s. 29A.11(f).)

3
4 **§ 90A-47.5. Suspension; revocation of certificate.**

5 (a) The Commission, in accordance with the provisions of Chapter 150B of the General
6 Statutes, may suspend or revoke the certificate of any operator in charge who:

- 7 (1) Engages in fraud or deceit in obtaining certification.
8 (2) Fails to exercise reasonable care, judgment, or use of the operator's
9 knowledge and ability in the performance of the duties of an operator in
10 charge.
11 (3) Is incompetent or otherwise unable to properly perform the duties of an
12 operator in charge.

13 (b) In addition to revocation of a certificate, the Commission may levy a civil penalty,
14 not to exceed one thousand dollars (\$1,000) per violation, for willful violation of the
15 requirements of this Part.

16 The clear proceeds of civil penalties levied pursuant to this subsection shall be remitted to
17 the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1995 (Reg. Sess.,
18 1996), c. 626, s. 6(b); 1998-215, s. 46.)

19
20 **§ 90A-47.6. Rules.**

21 The Commission shall adopt rules to implement the provisions of this Part. (1995 (Reg.
22 Sess., 1996), c. 626, s. 6(b).)

23
24 **§ 90A-48. Reserved for future codification purposes.**

25
26 **§ 90A-49. Reserved for future codification purposes.**

27
28 Article 4.

29 Registrations of Environmental Health Specialists.

30 **§ 90A-50. State Board of Environmental Health Specialist Examiners.**

31 (a) There is hereby created a State Board of Environmental Health Specialist Examiners
32 to register qualified environmental health specialists to practice within the State. Each
33 registered sanitarian and registered sanitarian intern shall be a registered environmental health
34 specialist or a registered environmental health specialist intern as applicable.

35 (b) It is the sole purpose of this Article to safeguard the health, safety, and general
36 welfare of the public from adverse environmental factors and to register those environmental
37 health professionals practicing as registered environmental health specialists or registered
38 environmental health specialist interns who are qualified by education, training, and experience
39 to work in the public sector in the field of environmental health within the scope of practice as
40 defined in this Article. (1959, c. 1271, s. 2; 1973, c. 476, s. 128; 1981 (Reg. Sess., 1982), c.
41 1274, s. 2; 2009-443, s. 1(b).)

42
43 **§ 90A-51. Definitions.**

44 The words and phrases defined below shall when used in this Article have the following
45 meaning unless the context clearly indicates otherwise:

- 46 (1) "Board" means the Board of Environmental Health Specialist Examiners.
47 (2) "Certificate of registration" means a document issued by the Board as
48 evidence of registration and qualification to practice as a registered
49 environmental health specialist or a registered environmental health
50 specialist intern under this Article. The certificate shall bear the designation
51 "Registered Environmental Health Specialist" or "Registered Environmental

1 Health Specialist Intern" and show the name of the person, date of issue,
2 serial number, seal, and signatures of the members of the Board.

3 (2a) "Environmental health practice" means the provision of environmental
4 health services, including administration, organization, management,
5 education, enforcement, and consultation regarding environmental health
6 services provided to or for the public. These services are offered to prevent
7 environmental hazards and promote and protect the health of the public in
8 the following areas: food, lodging, and institutional sanitation; on-site
9 wastewater treatment and disposal; public swimming pool sanitation;
10 childhood lead poisoning prevention; well permitting and inspection; tattoo
11 parlor sanitation; and all other areas of environmental health requiring the
12 delegation of authority by the Division of Public Health of the Department
13 of Health and Human Services to State and local environmental health
14 professionals to enforce rules adopted by the Commission for Public Health.
15 The definition also includes local environmental health professionals
16 enforcing rules of local boards of health for on-site wastewater systems and
17 wells.

18 (2b) "Environmental health specialist" means a public health professional who
19 meets the educational requirements under this Article and has attained
20 specialized training and acceptable environmental health field experience
21 effectively to plan, organize, manage, provide, execute, and evaluate one or
22 more of the many diverse elements comprising the field of environmental
23 health practice.

24 (3) Repealed by Session Laws 2009-443, s. 2, effective August 7, 2009.

25 (4) "Registered environmental health specialist" means an environmental health
26 specialist registered in accordance with the provisions of this Article.

27 For purposes of this Article the following are not included within the
28 definition of "registered environmental health specialist" unless the person is
29 working as an environmental health specialist:

- 30 a. A person teaching, lecturing, or engaging in research.
- 31 b. A person who is a sanitary engineer, public health engineer, public
32 health engineering assistant, registered professional engineer,
33 industrial hygienist, health physicist, chemist, epidemiologist,
34 toxicologist, geologist, hydrogeologist, waste management specialist,
35 or soil scientist.
- 36 c. A public health officer or public health department director.
- 37 d. A person who holds a North Carolina license to practice medicine,
38 veterinary medicine, or nursing.
- 39 e. Laboratory personnel when performing or supervising the
40 performance of sanitation related laboratory functions.

41 (5) "Registered environmental health specialist intern" means a person who
42 possesses the necessary educational qualifications as prescribed in G.S.
43 90A-53, but who has not completed the experience and specialized training
44 requirements in the field of public health sanitation as required for
45 registration. (1959, c. 1271, s. 1; 1981 (Reg. Sess., 1982), c. 1274, s. 2;
46 1989, c. 545, s. 1; 2009-443, s. 2; 2011-145, s. 13.3(ii).)

47
48 **§ 90A-52. Practice without certificate unlawful.**

49 (a) In order to safeguard life, health and the environment, it shall be unlawful for any
50 person to practice as an environmental health specialist or an environmental health specialist
51 intern in the State of North Carolina or use the title "registered environmental health specialist"

1 or "registered environmental health specialist intern" unless the person shall have obtained a
2 certificate of registration from the Board. No person shall offer services as a registered
3 environmental health specialist or registered environmental health specialist intern or use,
4 assume or advertise in any way any title or description tending to convey the impression that
5 the person is a registered environmental health specialist or registered environmental health
6 specialist intern unless the person is the holder of a current certificate of registration issued by
7 the Board.

8 (b) Notwithstanding the provisions of subsection (a) of this section, a person may
9 practice as an environmental health specialist intern for a period not to exceed three years from
10 the date of the initial registration, provided the person has obtained a temporary certificate of
11 registration from the Board. (1959, c. 1271, s. 12; 1981 (Reg. Sess., 1982), c. 1274, s. 2;
12 2009-443, s. 3.)
13

14 **§ 90A-53. Qualifications and examination for registration as an environmental health**
15 **specialist or environmental health specialist intern.**

16 (a) The Board shall issue a certificate to a qualified person as a registered
17 environmental health specialist or a registered environmental health specialist intern. A
18 certificate as a registered environmental health specialist or a registered environmental health
19 specialist intern shall be issued to any person upon the Board's determination that the person:

- 20 (1) Has made application to the Board on a form prescribed by the Board and
21 paid a fee not to exceed one hundred dollars (\$100.00);
- 22 (2) Is of good moral and ethical character and has signed an agreement to adhere
23 to the Code of Ethics adopted by the Board;
- 24 (3) Meets any of the following combinations of education and practice
25 experience standards:
 - 26 a. Graduated from a baccalaureate or postgraduate degree program that
27 is accredited by the National Environmental Health Science and
28 Protection Accreditation Council (EHAC) and has one or more years
29 of experience in the field of environmental health practice; or
 - 30 b. Graduated from a baccalaureate or postgraduate degree program that
31 is accredited by an accrediting organization recognized by the United
32 States Department of Education, Council for Higher Education
33 Accreditation (CHEA) and meets both of the following:
 - 34 1. Earned a minimum of 30 semester hours or its equivalent in
35 the physical or biological sciences; and
 - 36 2. Has two or more years of experience in the field of
37 environmental health practice.
 - 38 c. Graduated from a baccalaureate program rated as acceptable by the
39 Board and meets both of the following:
 - 40 1. Earned a minimum of 30 semester hours or its equivalent in
41 the physical or biological sciences; and
 - 42 2. Has two or more years of experience in the field of
43 environmental health practice.
- 44 (4) Has satisfactorily completed a course in specialized instruction and training
45 approved by the Board in the practice of environmental health;
- 46 (5) Repealed by Session Laws 2009-443, s. 4, effective August 7, 2009.
- 47 (6) Has passed an examination administered by the Board designed to test for
48 competence in the subject matters of environmental health sanitation. The
49 examination shall be in a form prescribed by the Board and may be oral,
50 written, or both. The examination for applicants shall be held annually or
51 more frequently as the Board may by rule prescribe, at a time and place to be

1 determined by the Board. A person shall not be registered if such person
2 fails to meet the minimum grade requirements for examination specified by
3 the Board. Failure to pass an examination shall not prohibit such person
4 from being examined at subsequent times and places as specified by the
5 Board; and

6 (7) Has paid a fee set by the Board not to exceed the cost of purchasing the
7 examination and an administrative fee not to exceed one hundred fifty
8 dollars (\$150.00).

9 (b) The Board may issue a certificate to a person serving as a registered environmental
10 health specialist intern without the person meeting the full requirements for experience of a
11 registered environmental health specialist for a period not to exceed three years from the date
12 of initial registration as a registered environmental health specialist intern, provided, the person
13 meets the educational requirements in G.S. 90A-53 and is in the field of environmental health
14 practice. (1959, c. 1271, s. 6; 1981 (Reg. Sess., 1982), c. 1274, s. 2; 1989, c. 545, s. 2; 1993, c.
15 233, ss. 1-3; 2009-443, s. 4.)

16
17 **§ 90A-54:** Repealed by Session Laws 2009-443, s. 5, effective August 7, 2009.

18
19 **§ 90A-55. State Board of Environmental Health Specialist Examiners; appointment and**
20 **term of office.**

21 (a) Board Membership. – The Board shall consist of 12 members who shall serve
22 staggered terms: the Secretary of Health and Human Services, or the Secretary's duly
23 authorized representative, one public-spirited citizen, one environmental sanitation educator
24 from an accredited college or university, one local health director, a representative of the
25 Division of Public Health of the Department of Health and Human Services, and seven
26 practicing environmental health specialists who qualify by education and experience for
27 registration under this Article, six of whom shall represent the Western, Piedmont, and Eastern
28 Regions of the State as described more specifically in the rules adopted by the Board.

29 (b) Term of Office. – Each member of the State Board of Environmental Health
30 Specialist Examiners shall be appointed by the Governor for a term of four years. As the term
31 of each current member expires, the Governor shall appoint a successor in accordance with the
32 provisions of this section. If a vacancy occurs on the Board for any other reason than the
33 expiration of a member's term, the Governor shall appoint a successor for the remainder of the
34 unexpired term. No person shall serve as a member of the Board for more than two consecutive
35 four-year terms.

36 (c) The Environmental Health Section of the North Carolina Public Health Association,
37 Inc., shall submit a recommended list of Board member candidates to the Governor for the
38 Governor's consideration in appointments, except for the two representatives of the Department
39 of Health and Human Services recommended by the Secretary of Health and Human Services
40 and the local health director recommended by the North Carolina Local Health Directors
41 Association.

42 (d) The Governor may remove an appointee member for misconduct in office,
43 incompetency, neglect of duty, or other sufficient cause. (1959, c. 1271, s. 2; 1973, c. 476, s.
44 128; 1981 (Reg. Sess., 1982), c. 1274, s. 2; 1989, c. 727, s. 23; 1997-443, s. 11A.32; 2005-386,
45 s. 1.1; 2009-443, s. 6; 2011-145, s. 13.3(jj), (kk).)

46
47 **§ 90A-56. Compensation of Board members; expenses; employees.**

48 Members of the Board may receive compensation and be reimbursed for travel expenses in
49 accordance with G.S. 93B-5. Notwithstanding G.S. 93B-5(a), the per diem for eligible Board
50 members shall not exceed fifty dollars (\$50.00). The Board may employ necessary personnel
51 for the performance of its functions and fix the compensation therefor, within the limits of

1 funds available to the Board. The total expenses of the administration of this Article shall not
2 exceed the total income therefrom and none of the expenses of said Board or the compensation
3 or expenses of any officer thereof or any employee shall ever be paid or payable out of the
4 treasury of the State of North Carolina; and neither the Board nor any officer or employee
5 thereof shall have any power or authority to make or incur any expense, debt, or other financial
6 obligation binding upon the State of North Carolina. (1981 (Reg. Sess., 1982), c. 1274, s. 2;
7 1991 (Reg. Sess., 1992), c. 1011, s. 5; 2009-443, s. 7.)
8

9 **§ 90A-57. Election of officers; meetings; regulations.**

10 (a) The Board shall annually elect a chair, vice-chair, and a secretary-treasurer from
11 among its membership. The officers may serve more than one term. The Board shall meet
12 annually in the City of Raleigh, at a time set by the Board, and it may hold additional meetings
13 and conduct business at any place in the State. Seven members of the Board shall constitute a
14 quorum to do business. The Board may designate any member to conduct any proceeding,
15 hearing, or investigation necessary to its purpose, but any final action requires a quorum of the
16 Board. The Board is authorized to adopt such rules and regulations as may be necessary for the
17 efficient operation of the Board.

18 (b) The Board shall have an official seal and each member shall be empowered to
19 administer oaths in taking of testimony upon any matters pertaining to the function of the
20 Board. (1959, c. 1271, s. 3; 1981 (Reg. Sess., 1982), c. 1274, s. 2; 2009-443, s. 8.)
21

22 **§ 90A-58. Applicability of Chapter 93B.**

23 The Board shall be subject to the provisions of Chapter 93B of the General Statutes of
24 North Carolina. (1959, c. 1271, s. 5; 1981 (Reg. Sess., 1982), c. 1274, s. 2.)
25

26 **§ 90A-59. Record of proceedings; register of applications; registry of registered
27 environmental health specialists and environmental health specialist interns.**

28 (a) The Board shall keep a record of its proceedings.

29 (b) The Board shall maintain records for registration, which shall include:

30 (1) The place of residence, name and age of each applicant;

31 (2) The name and address of the employer of each applicant;

32 (3) The date of application;

33 (3a) The date of employment;

34 (4) Complete information of educational and experience qualifications;

35 (4a) A signed Code of Ethics;

36 (5) The action taken by the Board;

37 (6) The serial number of the certificate of registration issued to the applicant;

38 (7) The date on which the Board reviewed and acted upon the application;

39 (7a) Information on continuing education required to maintain registration; and

40 (8) Such other pertinent information as may be deemed necessary by the Board.

41 (c) The Board shall maintain a current registry of all environmental health specialists
42 and environmental health specialist interns in the State of North Carolina that have been
43 registered in accordance with the provisions of this Article.

44 (d) Records of the Board are public records as defined in Chapter 132 of the General
45 Statutes of North Carolina. However, college transcripts, examinations, and medical
46 information submitted to the Board shall not be considered public records. (1981 (Reg. Sess.,
47 1982), c. 1274, s. 2; 1987, c. 282, s. 11; 2009-443, s. 9.)
48

49 **§ 90A-60:** Repealed by Session Laws 2009-443, s. 10, effective August 7, 2009.

50
51 **§ 90A-61:** Repealed by Session Laws 2009-443, s. 10, effective August 7, 2009.

1
2 **§ 90A-62. Certification and registration of environmental health specialists registered in**
3 **other states.**

4 The Board may, without examination, grant a certificate as a registered environmental
5 health specialist to any person who at the time of application, is registered as a registered
6 environmental health specialist by a similar board of another state, district or territory whose
7 standards are determined to be acceptable to the Board and comply with rules adopted by the
8 Board. A fee to be determined by the Board and not to exceed one hundred dollars (\$100.00)
9 shall be paid by the applicant to the Board for the issuance of a certificate under the provisions
10 of this section. (1959, c. 1271, s. 9; 1981 (Reg. Sess., 1982), c. 1274, s. 2; 2009-443, s. 11.)
11

12 **§ 90A-63. Renewal of certificates.**

13 (a) A certificate as a registered environmental health specialist or registered
14 environmental health specialist intern issued pursuant to the provisions of this Article will
15 expire on the thirty-first day of December of the current year and must be renewed annually on
16 or before the first day of January. Each application for renewal must be accompanied by a
17 renewal fee to be determined by the Board, but not to exceed one hundred twenty-five dollars
18 (\$125.00). However, for renewals postmarked before January 1 of each year, the renewal fee
19 shall not exceed one hundred dollars (\$100.00).

20 (b) Registrations expired for failure to pay renewal fees may be reinstated under the
21 rules and regulations adopted by the Board.

22 (c) A registered environmental health specialist shall complete any continuing
23 education requirements specified by the Board for renewal of a certificate. (1959, c. 1271, s.
24 10; 1981 (Reg. Sess., 1982), c. 1274, s. 2; 1989, c. 545, s. 3; 2009-443, s. 12.)
25

26 **§ 90A-64. Suspensions and revocations of certificates.**

27 (a) The Board shall have the power to refuse to grant, or may suspend or revoke, any
28 certificate issued under provisions of this Article for any of the causes hereafter enumerated, as
29 determined by the Board:

- 30 (1) Fraud, deceit, or perjury in obtaining registration under the provisions of this
31 Article;
- 32 (2) Inability to practice with reasonable skill and safety due to drunkenness or
33 excessive use of alcohol, drugs, or chemicals;
- 34 (3) Unprofessional conduct, including a material departure from or failure to
35 conform to the standards of acceptable and prevailing practice or the ethics
36 of the profession;
- 37 (4) Defrauding the public or attempting to do so;
- 38 (5) Failing to renew certificate as required;
- 39 (6) Dishonesty;
- 40 (7) Incompetency;
- 41 (8) Inexcusable neglect of duty;
- 42 (9) Conviction in any court of a crime involving moral turpitude or conviction
43 of a felony;
- 44 (10) Failing to adhere to the Code of Ethics; or
- 45 (11) Failing to meet qualifications for renewal.

46 (a1) A registered environmental health specialist or registered environmental health
47 specialist intern who is convicted of a felony or a crime of moral turpitude shall report the
48 conviction to the Board within 30 days from the date of the conviction. A felony conviction
49 shall result in the automatic suspension of a certificate issued by the Board for 60 days until
50 further action is taken by the Board. The Board shall immediately begin the hearing process in

1 accordance with Article 3A of Chapter 150B of the General Statutes. Nothing in this section
2 shall preclude the Board from taking further action.

3 (b) The procedure to be followed by the Board when refusing to allow an applicant to
4 take an examination, or revoking or suspending a certificate issued under the provisions of this
5 Article, shall be in accordance with the provisions of Chapter 150B of the General Statutes of
6 North Carolina.

7 (c) The Board may conduct investigations for any complaints alleged or upon its own
8 motion for any allegations or causes for disciplinary action under subsection (a) of this section.
9 The Board may subpoena individuals and records to determine if action is necessary to enforce
10 this Article.

11 (d) The Board and its members, individually, or its staff shall not be held liable for any
12 civil or criminal proceeding when exercising in good faith its powers and duties authorized
13 under the provisions of this Article. (1959, c. 1271, s. 11; 1973, c. 1331, s. 3; 1981 (Reg. Sess.,
14 1982), c. 1274, s. 2; 1987, c. 827, s. 1; 2009-443, s. 13.)

15
16 **§ 90A-65. Representing oneself as a registered environmental health specialist or**
17 **registered environmental health specialist intern.**

18 A holder of a current certificate of registration may append to his or her name the letters,
19 "R.E.H.S." or "R.E.H.S.I." (1959, c. 1271, s. 12; 1981 (Reg. Sess., 1982), c. 1274, s. 2;
20 2009-443, s. 14.)

21
22 **§ 90A-66. Violations; penalty; injunction.**

23 Any person violating any of the provisions of this Article or of the rules and regulations
24 adopted by the Board shall be guilty of a Class 1 misdemeanor. The Board may appear in its
25 own name in the superior courts in an action for injunctive relief to prevent violation of this
26 Article and the superior courts shall have power to grant such injunctions regardless of whether
27 criminal prosecution has been or may be instituted as a result of such violations. Actions under
28 this section shall be commenced in the superior court district or set of districts as defined in
29 G.S. 7A-41.1 in which the respondent resides or has his principal place of business or in which
30 the alleged acts occurred. (1959, c. 1271, s. 13; 1981 (Reg. Sess., 1982), c. 1274, s. 2; 1987
31 (Reg. Sess., 1988), c. 1037, s. 104; 1993, c. 539, s. 653; 1994, Ex. Sess., c. 24, s. 14(c).)

32
33 **§ 90A-67. Code of Ethics.**

34 The Board shall prepare and adopt, by rule, a Code of Ethics to be made available in
35 writing to all registered environmental health specialists and registered environmental health
36 specialist interns and each applicant for registration under this Article. All registered
37 environmental health specialists and registered environmental health specialist interns shall
38 adhere to the Code of Ethics adopted by the Board. Publication of the Code of Ethics shall
39 serve as due notice to all certificate holders of its contents. (2009-443, s. 15.)

40
41 **§ 90A-68. Reserved for future codification purposes.**

42
43 **§ 90A-69. Reserved for future codification purposes.**

44
45 **Article 5.**

46 **Certification of On-Site Wastewater Contractors and Inspectors.**

47 **§ 90A-70. Purpose.**

48 It is the purpose of this Article to protect the environment and public health, safety, and
49 welfare by ensuring the integrity and competence of on-site wastewater contractors and
50 inspectors; to require the examination of on-site wastewater contractors and inspectors and the
51 certification of their competency to supervise or conduct the construction, installation, repair,

1 or inspection of on-site wastewater systems; to establish minimum standards for ethical
2 conduct, responsibility, training, experience, and continuing education for on-site wastewater
3 system contractors and inspectors; and to provide appropriate enforcement procedures for rules
4 adopted by the North Carolina On-Site Wastewater Contractors and Inspectors Certification
5 Board. (2006-82, s. 1.)
6

7 **§ 90A-71. Definitions.**

8 The following definitions apply in this Article:

- 9 (1) "Board" means the North Carolina On-Site Wastewater Contractors and
10 Inspectors Certification Board.
11 (2) "Contractor" means a person who constructs, installs, or repairs, or offers to
12 construct, install, or repair an on-site wastewater system in the State.
13 (3) "Conventional wastewater system" has the same meaning as in G.S.
14 130A-343(a)(3).
15 (4) "Department" means the Department of Health and Human Services.
16 (4a) "Inspection" means an examination of an on-site wastewater system
17 permitted under the provisions of Article 11 of Chapter 130A of the General
18 Statutes that satisfies all of the following criteria:
19 a. Is requested by a lending institution, realtor, prospective homebuyer,
20 or other impacted party as a condition of sale, refinancing, or transfer
21 of title.
22 b. Meets the minimum requirements established by the Board.
23 (5) "Inspector" means a person who conducts an inspection in accordance with
24 rules adopted by the Board.
25 (6) "On-site wastewater system" means any wastewater system permitted under
26 the provisions of Article 11 of Chapter 130A of the General Statutes that
27 does not discharge to a treatment facility or the surface waters of the State.
28 (7) "Person" means all persons, including individuals, firms, partnerships,
29 associations, public or private institutions, municipalities, or political
30 subdivisions, governmental agencies, or private or public corporations
31 organized and existing under the laws of this State or any other state or
32 country.
33 (8) "Wastewater treatment facility" means a mechanical or chemical treatment
34 facility serving a site with multiple wastewater sources. (2006-82, s. 1;
35 2010-31, s. 13.2(e); 2011-145, s. 13.3(II).)
36

37 **§ 90A-72. Certification required; applicability.**

38 (a) Certification Required. – No person shall construct, install, or repair or offer to
39 construct, install, or repair an on-site wastewater system permitted under Article 11 of Chapter
40 130A of the General Statutes without being certified as a contractor at the required level of
41 certification for the specified system. No person shall conduct an inspection or offer to conduct
42 an inspection of an on-site wastewater system as permitted under Article 11 of Chapter 130A of
43 the General Statutes without being certified in accordance with the provisions of this Article.

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

- 45 (1) A person who is employed by a certified contractor or inspector in
46 connection with the construction, installation, repair, or inspection of an
47 on-site wastewater system performed under the direct and personal
48 supervision of the certified contractor or inspector in charge.
49 (2) A person who constructs, installs, or repairs an on-site wastewater system
50 described as a single septic tank with a gravity-fed gravel trench dispersal
51 media when located on land owned by that person and that is intended solely

1 for use by that person and members of that person's immediate family who
2 reside in the same dwelling.

- 3 (3) A person licensed under Article 1 of Chapter 87 of the General Statutes who
4 constructs or installs an on-site wastewater system ancillary to the building
5 being constructed or who provides corrective services and labor for an
6 on-site wastewater system ancillary to the building being constructed.
7 (4) A person who is certified by the Water Pollution Control System Operators
8 Certification Commission and contracted to provide necessary operation and
9 maintenance on the permitted on-site wastewater system.
10 (5) A person permitted under Article 21 of Chapter 143 of the General Statutes
11 who is constructing a water pollution control facility necessary to comply
12 with the terms and conditions of a National Pollutant Discharge Elimination
13 System (NPDES) permit.
14 (6) A person licensed under Article 1 of Chapter 87 of the General Statutes as a
15 licensed public utilities contractor who is installing or expanding a
16 wastewater treatment facility, including a collection system, designed by a
17 registered professional engineer.
18 (7) A plumbing contractor licensed under Article 2 of Chapter 87 of the General
19 Statutes, so long as the plumber is not performing plumbing work that
20 includes the installation or repair of a septic tank or similar depository, or
21 lines or appurtenances downstream from the point where the house or
22 building sewer lines from the plumbing system meet the septic tank or
23 similar depository.
24 (8) A person employed by the Department, a local health department, or a local
25 health district, when conducting a regulatory inspection of an on-site
26 wastewater system for purposes of determining compliance. (2006-82, s. 1;
27 2010-31, s. 13.2(f).)
28

29 **§ 90A-73. Creation and membership of the Board.**

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

- 33 (1) One member appointed by the Governor who, at the time of appointment, is
34 engaged in the construction, installation, repair, or inspection of on-site
35 wastewater systems, to a term that expires on 1 July of years that precede by
36 one year those years that are evenly divisible by three.
37 (2) One member appointed by the Governor who, at the time of appointment, is
38 a certified water pollution control system operator pursuant to Article 3 of
39 this Chapter, to a term that expires on 1 July of years evenly divisible by
40 three.
41 (3) One member appointed by the Governor who is a registered professional
42 engineer licensed under Chapter 89C of the General Statutes and whose
43 work experience includes the design of on-site wastewater systems to a term
44 that expires on 1 July of years that follow by one year those years that are
45 evenly divisible by three.
46 (4) One member appointed by the General Assembly upon recommendation of
47 the President Pro Tempore of the Senate who, at the time of appointment, is
48 engaged in the construction, installation, repair, or inspection of on-site
49 wastewater systems, to a term that expires on 1 July of years that follow by
50 one year those years that are evenly divisible by three.

- 1 (5) One member appointed by the General Assembly upon recommendation of
2 the President Pro Tempore of the Senate who, at the time of appointment, is
3 engaged in the business of inspecting on-site wastewater systems, to a term
4 that expires on 1 July of years that precede by one year those years that are
5 evenly divisible by three.
- 6 (6) One member appointed by the General Assembly upon recommendation of
7 the President Pro Tempore of the Senate upon the recommendation of the
8 North Carolina Home Builders Association, to a term that expires on 1 July
9 of years evenly divisible by three.
- 10 (7) One member appointed by the General Assembly upon recommendation of
11 the Speaker of the House of Representatives who, at the time of
12 appointment, is engaged in the construction, installation, repair, or
13 inspection of on-site wastewater systems, to a term that expires on 1 July of
14 years evenly divisible by three.
- 15 (8) One member appointed by the General Assembly upon recommendation of
16 the Speaker of the House of Representatives who, at the time of
17 appointment, is (i) employed as an environmental health specialist, and (ii)
18 engaged primarily in the inspection and permitting of on-site wastewater
19 systems, to a term that expires on 1 July of years that follow by one year
20 those years that are evenly divisible by three.
- 21 (9) One member appointed by the General Assembly upon recommendation of
22 the Speaker of the House of Representatives who, at the time of
23 appointment, is (i) employed by the North Carolina Cooperative Extension
24 Service, and (ii) is knowledgeable in the area of on-site wastewater systems,
25 to a term that expires on 1 July of years that precede by one year those years
26 that are evenly divisible by three.

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

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

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

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

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

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

43 (i) Repealed by Session Laws 2010-31, s. 13.2(h), effective July 1, 2010. (2006-82, s.
44 1; 2010-31, ss. 13.2(g), (h); 2011-145, s. 13.3(mm).)

45
46 **§ 90A-74. Powers and duties of the Board.**

47 The Board shall have the following general powers and duties:

- 48 (1) To adopt rules in the manner prescribed by Chapter 150B of the General
49 Statutes to govern its actions and to implement the provisions of this Article.
- 50 (2) To determine the eligibility requirements for persons seeking certification
51 pursuant to this Article.

- 1 (3) To establish grade levels of certifications based on design capacity,
2 complexity, projected costs, and other features of approved on-site
3 wastewater systems.
- 4 (4) To develop and administer examinations for specific grade levels of
5 certification as approved by the Board. The Board may approve applications
6 by recognized associations for certification of its members after a review of
7 the requirements of the association to ensure that they are equivalent to the
8 requirements of the Board.
- 9 (5) To issue, renew, deny, restrict, suspend, or revoke certifications and to carry
10 out any of the other actions authorized by this Article.
- 11 (6) To establish, publish, and enforce rules of professional conduct of persons
12 who are certified pursuant to this Article.
- 13 (7) To maintain a record of all proceedings and make available to persons
14 certified under this Article, and to other concerned parties, an annual report
15 of all Board action.
- 16 (8) To establish reasonable fees for application, certification, and renewal, and
17 other services provided by the Board.
- 18 (9) To conduct investigations to determine whether violations of this Article or
19 grounds for disciplining persons certified under this Article exist.
- 20 (10) To adopt a common seal containing the name of the Board for use on all
21 certificates and official reports issued by the Board.
- 22 (10a) To employ staff necessary to carry out the provisions of this Article and to
23 determine the compensation, duties, and other terms and conditions of
24 employment of its staff.
- 25 (10b) To employ professional, clerical, investigative, or special personnel
26 necessary to carry out the provisions of this Article.
- 27 (11) To conduct other services necessary to carry out the purposes of this Article.
28 (2006-82, s. 1; 2010-31, s. 13.2(i).)
29

30 **§ 90A-75. Expenses and fees.**

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

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

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

- | | |
|--|-----------|
| 43 (1) Application for basic certification | \$150.00 |
| 44 (2) Application for each grade level | \$50.00 |
| 45 (3) Certification renewal | \$100.00 |
| 46 (4) Reinstatement of revoked or suspended
47 Certification | \$500.00 |
| 48 (5) Application for on-site wastewater
49 system inspector | \$200.00. |

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

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

3
4 **§ 90A-76:** Repealed by Session Laws 2010-31, s. 13.2(k), effective July 1, 2010.

5
6 **§ 90A-77. Certification requirements.**

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

- 9 (1) Is at least 18 years of age.
- 10 (2) Submits a properly completed application to the Board.
- 11 (3) Completes the basic on-site wastewater education program approved by the
12 Board for the specific grade level.
- 13 (4) Repealed by Session Laws 2010-31, s. 13.2(l), effective July 1, 2010.
- 14 (5) Completes any additional training program designed by the Board specific to
15 the grade level for which the applicant is applying.
- 16 (6) Pays the applicable fees set by the Board for the particular application and
17 grade level.
- 18 (7) For the specific grade level, as determined by the Board, passes a written or
19 oral examination that tests the applicant's proficiency in all of the following
20 areas:
 - 21 a. Principles of public and environmental health associated with on-site
22 wastewater systems.
 - 23 b. Principles of construction and safety.
 - 24 c. Technical and practical knowledge of on-site wastewater systems
25 typical to the specified grade level.
 - 26 d. Laws and rules related to the installation, construction, repair, or
27 inspection of the specified on-site wastewater system.

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

30 (c) Approval of Certification Programs. – The Board may issue a certificate at the
31 appropriate grade level to an applicant who has completed an approved training or continuing
32 education program.

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

40 (e) Certificate. – The certification shall show the full name of the certificate holder. The
41 certificate shall provide a unique identification number and shall be signed by the Chair.
42 Issuance of the certificate by the Board shall be prima facie evidence that the person named
43 therein is entitled to all the rights and privileges of a certified contractor or inspector, at the
44 grade level specified on the certificate, while the certificate remains in effect.

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

49
50 **§ 90A-78. Certification renewal.**

1 (a) Renewal. – All certifications shall expire at intervals determined by the Board
2 unless they are renewed. In no event may the interval determined by the Board be less than one
3 year. To renew a certification, a contractor or inspector must meet all of the following
4 conditions:

- 5 (1) Submit an application for renewal on the form prescribed by the Board.
- 6 (2) Meet the continuing education requirements prescribed by the Board.
- 7 (3) Pay the certification renewal fee.

8 (b) Late Fee. – A contractor or inspector with an expired certificate may renew the
9 certification within 90 days of its expiration upon payment of a late fee set by the Board. The
10 late fee shall not exceed twenty-five dollars (\$25.00). If a certification is not renewed within 90
11 days of its expiration, the certification shall not be renewed, and the holder must apply for a
12 new certificate. (2006-82, s. 1.)
13

14 **§ 90A-79. Continuing education.**

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

20 (b) Approval of Continuing Education Programs. – The Board may approve a
21 continuing education program or course if the Board finds that the program or course provides
22 useful educational information or experience that will enhance the construction, installation,
23 repair, or inspection of on-site wastewater systems. The Board may develop and offer
24 continuing education programs. (2006-82, s. 1.)
25

26 **§ 90A-80. Investigation of complaints.**

27 (a) Misconduct. – A person may refer to the Board charges of fraud, deceit, negligence,
28 incompetence, or misconduct against any certified contractor or inspector. The charges shall be
29 in writing and sworn to by the complainant and submitted to the Board. These charges, unless
30 dismissed without a hearing by the Board as unfounded or trivial, shall be heard and
31 determined by the Board in accordance with the provisions of Chapter 150B of the General
32 Statutes. An association that receives professional recognition of its own certification process
33 by the Board shall be responsible for the conduct and competency of its members.

34 (b) Records. – The Board shall establish and maintain detailed records regarding
35 complaints concerning each certified contractor or inspector. The records shall include those
36 certified by recognized associations. The records shall also detail the levels of certification held
37 by each contractor or inspector.

38 (c) Notification. – The Board shall provide local health departments with notification of
39 changes in certifications, complaints, suspensions, or reinstatements under this Article.
40 (2006-82, s. 1.)
41

42 **§ 90A-81. Remedies.**

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

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

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

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

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

- 16 (1) Engages in or offers to engage in the construction, installation, repair, or
17 inspection of an on-site wastewater system without the appropriate
18 certificate for the grade level of on-site wastewater system.
- 19 (2) Gives false or forged evidence of any kind in obtaining a certificate.
- 20 (3) Falsely impersonates a certified contractor or inspector. (2006-82, s. 1;
21 2010-31, s. 13.2(m); 2011-145, s. 13.3(nn).)