

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH10228-RTf-11A* (03/18)

Short Title: Certification of Wastewater Site Evaluators. (Public)

Sponsors: Representatives Brubaker, Culpepper, Goforth, and Gorman (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE CERTIFICATION OF WASTEWATER SITE
EVALUATORS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 90A of the General Statutes is amended by adding a new Part to read:

"Part 3. Certification of Wastewater Site Evaluators.

"§ 90A-48. Purpose.

The purposes of this Part are to reduce nonpoint source pollution in order to protect the public health and to conserve and protect the quality of the water resources of the State, to protect the investment of homeowners and others who purchase property served by wastewater systems, and to promote the highest of technical competence and ethical standards among those who design and install wastewater systems by requiring examination of site evaluators and certification of their competency.

"§ 90A-48.1. Definitions.

(a) As used in this Part:

(1) 'Certified Site Evaluator' means a person who is certified by the Commission under this Part.

(2) 'Commission' means the Water Pollution Control System Operators Certification Commission.

(3) 'Wastewater system' means a wastewater system, as defined in G.S. 130A-334, that is designed to treat 3,000 gallons of wastewater per day or less and that disposes of effluent by means of a subsurface disposal field.

(b) The definitions set out in G.S. 130A-334 apply to this Part.

"§ 90A-48.2. Certified Site Evaluator; functions.

1 (a) A Certified Site Evaluator may perform any of the following functions:

2 (1) Collection of site-specific information necessary for the design,
3 permitting, and installation of a wastewater system.

4 (2) Evaluation and recommendation of specific wastewater system
5 technologies on the basis of their applicability to a particular site.

6 (3) Development of performance criteria for the operation of a wastewater
7 system.

8 (4) Development of installation, operation, and maintenance requirements
9 for a wastewater system.

10 (5) Determination as to whether an improvement permit or an
11 authorization to construct should be issued for a site to be served by a
12 wastewater system.

13 (b) A Certified Site Evaluator may not perform the practice of soil science unless
14 the Certified Site Evaluator is also a Licensed Soil Scientist under the provisions of
15 Chapter 89F of the General Statutes.

16 (c) An application for an improvement permit or an authorization to construct for
17 construction that will be served by a wastewater system shall be certified by a Certified
18 Site Evaluator before the application is submitted to a local health department. An
19 application for an improvement permit or an authorization to construct for construction
20 that will be served by a wastewater system shall be reviewed and approved or denied
21 only by a Certified Site Evaluator employed by the local health department.

22 (d) No person shall perform the duties of a Certified Site Evaluator without being
23 certified as provided in this Part. A Certified Site Evaluator may be assisted by other
24 persons if the Certified Site Evaluator directly supervises and assumes responsibility for
25 the work.

26 **§ 90A-48.3. Qualifications for certification; training; examination.**

27 (a) The Commission shall develop and administer a certification program for a
28 Certified Site Evaluator that provides for training, examination of applicants, and
29 investigation of the qualifications of applicants. An applicant for certification must be
30 one or more of the following:

31 (1) A Professional Engineer licensed under Chapter 89C of the General
32 Statutes.

33 (2) A Licensed Geologist licensed under Chapter 89E of the General
34 Statutes.

35 (3) A Licensed Soil Scientist licensed under Chapter 89F of the General
36 Statutes.

37 (4) A Registered Sanitarian licensed under Article 4 of Chapter 90A of the
38 General Statutes.

39 (b) The Commission, in cooperation with the Division of Environmental Health
40 of the Department of Environment and Natural Resources and the Cooperative
41 Extension Service, shall develop and administer a training program for Certified Site
42 Evaluators. An applicant for initial certification shall complete 30 hours of classroom
43 instruction prior to taking the examination. In order to remain certified, a Certified Site

1 Evaluator shall complete 45 hours of approved additional training during each three-
2 year period following initial certification.

3 (c) The certificate of a Certified Site Evaluator who fails to complete approved
4 additional training within 60 days of the end of the three-year period is void. A Certified
5 Site Evaluator whose certificate is voided by reason of failure to complete approved
6 additional training may be renewed only if the person reapplies to the Commission for
7 certification, pays the examination fee, and successfully completes the examination.

8 **"§ 90A-48.4. Fees; certificate renewals.**

9 (a) An applicant for certification under this Part shall pay a fee of three hundred
10 dollars (\$300.00) for the examination and initial certification.

11 (b) A Certified Site Evaluator shall pay an annual renewal fee of one hundred
12 dollars (\$100.00). The certificate of a Certified Site Evaluator who fails to pay the
13 annual renewal fee within 30 days after the fee is due is void and may be renewed only
14 by payment of the annual renewal fee plus a late fee of one hundred dollars (\$100.00).
15 A Certified Site Evaluator who fails to pay the annual renewal fee and late fee within
16 120 days may be recertified only as provided in G.S. 90A-48.3(c).

17 **"§ 90A-48.5. Suspension; revocation of certificate.**

18 (a) The Commission, in accordance with the provisions of Chapter 150B of the
19 General Statutes, may suspend or revoke the certificate of any Certified Site Evaluator
20 who:

21 (1) Engages in fraud or deceit in connection with obtaining certification or
22 in connection with the performance of the duties of a Certified Site
23 Evaluator.

24 (2) Fails to exercise reasonable care, judgment, or use of the site
25 evaluator's knowledge and ability in the performance of the duties of a
26 Certified Site Evaluator.

27 (b) In addition to suspension or revocation of a certificate, the Commission may
28 levy a civil penalty of not more than one thousand dollars (\$1,000) per violation against
29 any Certified Site Evaluator or person acting as a Certified Site Evaluator for a violation
30 of any requirement of this Part.

31 (c) The clear proceeds of civil penalties levied pursuant to this subsection shall
32 be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S.
33 115C-457.2.

34 **"§ 90A-48.6. Rules.**

35 The Commission shall adopt rules to implement the provisions of this Part."

36 **SECTION 2.** G.S. 130A-334 is amended by adding a new subdivision to
37 read:

38 "(1) 'Certified Site Evaluator' means a person who is certified under the
39 provisions of Part 3 of Article 3 of Chapter 90A of the General
40 Statutes."

41 **SECTION 3.** G.S. 130A-336 reads as rewritten:

42 **"§ 130A-336. Improvement permit and authorization for wastewater system**
43 **construction required.**

1 (a) Any proposed site for a residence, place of business, or place of public
2 assembly in an area not served by an approved wastewater system shall be evaluated by
3 the local health department in accordance with rules adopted pursuant to this Article. An
4 improvement permit shall be issued in compliance with the rules adopted pursuant to
5 this Article. An improvement permit shall include:

6 (1) For permits that are valid without expiration, a plat or, for permits that
7 are valid for five years, a site plan.

8 (2) A description of the facility the proposed site is to serve.

9 (3) The proposed wastewater system and its location.

10 (4) The design wastewater flow and characteristics.

11 (5) The conditions for any site modifications.

12 (6) Any other information required by the rules of the Commission.

13 (a1) The improvement permit shall not be affected by change in ownership of the
14 site for the wastewater system provided both the site for the wastewater system and the
15 facility the system serves are unchanged and remain under the ownership or control of
16 the person owning the facility. No person shall commence or assist in the construction,
17 location, or relocation of a residence, place of business, or place of public assembly in
18 an area not served by an approved wastewater system unless an improvement permit
19 and an authorization for wastewater system construction are obtained from the local
20 health department. This requirement shall not apply to a manufactured residence
21 exhibited for sale or stored for later sale and intended to be located at another site after
22 sale.

23 (b) The local health department shall issue an authorization for wastewater
24 system construction authorizing work to proceed and the installation or repair of a
25 wastewater system when it has determined after a field investigation that the system can
26 be installed and operated in compliance with this Article and rules adopted pursuant to
27 this Article. This authorization for wastewater system construction shall be valid for a
28 period equal to the period of validity of the improvement permit, not to exceed five
29 years, and may be issued at the same time the improvement permit is issued. No person
30 shall commence or assist in the installation, construction, or repair of a wastewater
31 system unless an improvement permit and an authorization for wastewater system
32 construction have been obtained from the Department or the local health department.
33 No improvement permit or authorization for wastewater system construction shall be
34 required for maintenance of a wastewater system. The Department and the local health
35 department may impose conditions on the issuance of an improvement permit and an
36 authorization for wastewater system construction.

37 (c) Unless the Commission otherwise provides by rule, plans, and specifications
38 for all wastewater systems designed for the collection, treatment, and disposal of
39 industrial process wastewater shall be reviewed and approved by the Department prior
40 to the issuance of an authorization for wastewater system construction by the local
41 health department.

42 (d) If a local health department repeatedly fails to issue or deny improvement
43 permits for conventional septic tank systems within 60 days of receiving completed

1 applications for the permits, then the Department of Environment and Natural
2 Resources may withhold public health funding from that local health department.

3 (e) When a local health department issues an improvement permit or
4 authorization to construct based upon work performed by a Licensed Soil Scientist and
5 a Certified Site Evaluator, the improvement permit or authorization to construct shall
6 bear a statement that reads:

7 "The soil and site work necessary to issue this improvement permit or authorization
8 to construct was performed by: _____, a Licensed Soil Scientist, License
9 # _____, and _____, a Certified Site Evaluator, Certification #
10 _____."

11 (f) When a local health department denies an application for an improvement
12 permit or authorization to construct prepared by a Licensed Soil Scientist and Certified
13 Site Evaluator, the denial shall specifically identify the provisions of G.S. 130A-336 or
14 rules adopted pursuant to G.S. 130A-336 on which the denial was based. No complete
15 application for an improvement permit or authorization to construct prepared by a
16 Licensed Soil Scientist and Certified Site Evaluator shall be denied without prior
17 contact between the applicant and local health department as documented in a written
18 permit application review checklist. Prior to health department denial, the written permit
19 application review checklist must be given to the applicant which identifies the date and
20 time of contacts between the local health department and applicant to resolve
21 deficiencies in the soil evaluation or proposed wastewater system."

22 **SECTION 4.** Article 2 of Chapter 47 of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 47-30.1A. Plats and subdivision; additional requirements for lots not served by**
25 **a public sewer system.**

26 A Licensed Soil Scientist licensed under Chapter 89F of the General Statutes who is
27 also a Certified Site Evaluator certified under G.S. 90A-48 shall prepare a signed and
28 sealed report that determines the soil types within the proposed subdivision and states
29 the potential of each proposed lot to be permitted for a wastewater system by the local
30 health department in accordance with Article 11 of Chapter 130A of the General
31 Statutes. Unless otherwise prescribed by a local planning board, the report shall address
32 topography, landscape position, soil morphology, saprolite morphology, soil depth,
33 depth to seasonal high water table, presence of any restrictive horizons, estimated long
34 term acceptance rate of wastewater application, and any additional information pertinent
35 to the siting and approval of a proposed wastewater system."

36 **SECTION 5.** G.S. 47-30.2(a) reads as rewritten:

37 "(a) The board of commissioners of each county shall, by resolution, designate by
38 name one or more persons experienced in mapping or land records management as a
39 Review Officer to review each ~~map and plat~~ map, plat, and soil scientist report required
40 to be submitted for review before the map or plat is presented to the register of deeds for
41 recording. Each person designated a Review Officer shall, if reasonably feasible, be
42 certified as a property mapper pursuant to G.S. 147-54.4. A resolution designating a
43 Review Officer shall be recorded in the county registry and indexed on the grantor
44 index in the name of the Review Officer."

1 SECTION 6. G.S. 143B-301 reads as rewritten:

2 "§ 143B-301. Water Pollution Control System Operators Certification
3 Commission – members; selection; removal; compensation; quorum;
4 services.

5 (a) The Water Pollution Control System Operators Certification Commission
6 shall consist of ~~11~~13 members. Two members shall be from the animal agriculture
7 industry and shall be appointed to three-year terms by the Commissioner of Agriculture.
8 ~~Nine~~Eleven members shall be appointed by the Secretary of Environment and Natural
9 Resources with the approval of the Environmental Management Commission ~~with the~~
10 ~~following qualifications:~~to three-year terms as follows:

11 (1) ~~Two members~~One member shall be currently employed as a water
12 pollution control facility operators,operator, water pollution control
13 system superintendents superintendent or directors,director, water and
14 sewer superintendents superintendent or directors,director, or an
15 equivalent positions position with a North Carolina
16 municipality;municipality, to a term that expires on 1 July of years
17 evenly divisible by three.

18 (2) One member shall be currently employed as a water pollution control
19 facility operator, water pollution control system superintendent or
20 director, water and sewer superintendent or director, or an equivalent
21 position with a North Carolina municipality, to a term that expires on 1
22 July of years that precede by one year those years that are evenly
23 divisible by three.

24 ~~(2)~~(3) One member shall be manager of a North Carolina municipality
25 having a population of more than 10,000 as of the most recent federal
26 eensus;census, to a term that expires on 1 July of years that follow by
27 one year those years that are evenly divisible by three.

28 ~~(3)~~(4) One member shall be manager of a North Carolina municipality
29 having a population of less than 10,000 as of the most recent federal
30 eensus;census, to a term that expires on 1 July of years evenly divisible
31 by three.

32 ~~(4)~~(5) One member shall be employed by a private industry and shall be
33 responsible for supervising the treatment or pretreatment of industrial
34 wastewater;wastewater, to a term that expires on 1 July of years that
35 precede by one year those years that are evenly divisible by three.

36 ~~(5)~~(6) One member who is a faculty member of a four-year college or
37 university and whose major field is related to wastewater
38 treatment;treatment, to a term that expires on 1 July of years that
39 follow by one year those years that are evenly divisible by three.

40 (7) One member who is a faculty member of a four-year college or
41 university and whose major field is related to water pollution control,
42 to a term that expires on 1 July of years evenly divisible by three.

43 ~~(6)~~(8) One member who is employed by the Department of Environment and
44 Natural Resources and works in the field of water pollution control,

1 control, pursuant to Article 21 of Chapter 143 of the General Statutes,
2 who shall serve ~~as at the pleasure of the Secretary and shall be the~~
3 ~~Chairman-Cochair of the Commission;~~Commission.

4 (9) One member who is employed by the Department of Environment and
5 Natural Resources and works in the field of wastewater systems,
6 pursuant to Article 11 of Chapter 130A of the General Statutes, who
7 shall serve at the pleasure of the Secretary and shall be the Cochair of
8 the Commission.

9 ~~(7)~~(10) One member who is employed by a commercial water pollution
10 control system operating ~~firm; and~~ firm, to a term that expires on 1 July
11 of years that follow by one year those years that are evenly divisible by
12 three.

13 ~~(8)~~(11) One member shall be currently employed as a water pollution control
14 system collection operator, superintendent, director, or equivalent
15 position with a North Carolina ~~municipality-~~municipality, to a term
16 that expires on 1 July of years that precede by one year those years that
17 are evenly divisible by three.

18 (b) ~~Appointments to the Commission shall be for a term of three years. Terms~~
19 ~~shall be staggered so that three terms shall expire on 30 June of each year, except that~~
20 ~~members-~~Members of the Commission shall serve until their successors are appointed
21 and duly qualified as provided by G.S. 128-7.

22 (c) The Commission shall elect a ~~Vice-Chairman~~Vice-Chair from among its
23 members. The ~~Vice-Chairman~~Vice-Chair shall serve ~~from the time of his election until~~
24 ~~30 June of the following year, or until his successor is elected.~~a one-year term, subject
25 to reelection.

26 (d) Any appointment to fill a vacancy on the Commission created by the
27 resignation, dismissal, death or disability of a member shall be for the balance of the
28 unexpired term.

29 (e) The Governor shall have the power to remove any member of the
30 Commission from office for misfeasance, malfeasance, and nonfeasance according to
31 the provisions of G.S. 143B-13.

32 (f) The members of the Commission shall receive per diem and necessary travel
33 and subsistence expenses in accordance with the provisions of G.S. 138-5 and G.S.
34 143B-15.

35 (g) A majority of the Commission shall constitute a quorum for the transaction of
36 business.

37 (h) All clerical and other services required by the Commission shall be supplied
38 by the Secretary of Environment and Natural Resources."

39 **SECTION 7.** In order to provide for a system of staggered three-year terms
40 for the members of the Water Pollution Control System Operators Certification
41 Commission, the following provisions shall apply:

42 (1) The term of the member appointed to serve in the position established
43 by G.S. 143B-301(a)(1) shall be four years and shall expire on 1 July
44 2007.

- 1 (2) The term of the member appointed to serve in the position established
2 by G.S. 143B-301(a)(2) shall be three years and shall expire on 1 July
3 2006.
- 4 (3) The term of the member appointed to serve in the position established
5 by G.S. 143B-301(a)(3) shall be five years and shall expire on 1 July
6 2008.
- 7 (4) The term of the member appointed to serve in the position established
8 by G.S. 143B-301(a)(4) shall be four years and shall expire on 1 July
9 2007.
- 10 (5) The term of the member appointed to serve in the position established
11 by G.S. 143B-301(a)(5) shall be three years and shall expire on 1 July
12 2006.
- 13 (6) The term of the member appointed to serve in the position established
14 by G.S. 143B-301(a)(6) shall be five years and shall expire on 1 July
15 2008.
- 16 (7) The term of the member initially appointed to serve in the position
17 established by G.S. 143B-301(a)(7) shall be four years and shall expire
18 on 1 July 2007.
- 19 (8) The term of the member appointed to serve in the position established
20 by G.S. 143B-301(a)(10) shall be five years and shall expire on 1 July
21 2008.
- 22 (9) The term of the member appointed to serve in the position established
23 by G.S. 143B-301(a)(11) shall be three years and shall expire on 1 July
24 2006.

25 **SECTION 8.** Unless an applicant is found to have engaged in conduct that
26 would constitute grounds for suspension or revocation of certification under G.S.
27 90A-48.5, as enacted by Section 1 of this act, the Water Pollution Control System
28 Operators Certification Commission shall certify an applicant as a Certified Site
29 Evaluator without examination if the applicant is qualified under G.S. 90A-48.3, as
30 enacted by Section 1 of this act, and if the applicant demonstrates to the satisfaction of
31 the Commission that the applicant has actively and continuously engaged in evaluation
32 of sites for at least five years beginning 1 July 2000.

33 **SECTION 9.** Subdivisions (1) and (1a) of G.S. 130A-334 are recodified as
34 subdivisions (1a) and (1b).

35 **SECTION 10.** This act constitutes a recent act of the General Assembly
36 within the meaning of G.S. 150B-21.1. The Water Pollution Control System Operators
37 Certification Commission may adopt temporary rules to implement the provisions of
38 this act until 1 July 2005. Notwithstanding G.S. 150B-21.1(d), a temporary rule
39 adopted in accordance with this section shall remain in effect until a permanent rule
40 adopted to replace the temporary rule becomes effective. Prior to the adoption of
41 temporary rules under this section, the Board shall:

- 42 (1) Consult with persons who may be interested in the subject matter of
43 the temporary rule during the development of the text of the proposed
44 temporary rule.

- 1 (2) Notify persons on the mailing list that the Commission maintains
2 pursuant to G.S. 150B-21.2(d) and notify persons on the mailing list of
3 its intent to adopt a temporary rule.
4 (3) Publish a notice of intent to adopt a temporary rule in the North
5 Carolina Register. The notice shall set out the text of the proposed
6 temporary rule and include the name of the person to whom questions
7 and written comments on the proposed rule may be submitted. The
8 Board shall accept written comments on the proposed temporary rule
9 for at least 30 days after the notice of intent to adopt the temporary
10 rule as published in the North Carolina Register.
11 (4) Hold at least one public hearing on the proposed temporary rule.

12 **SECTION 11.** Section 1 of this act is effective when it becomes law except
13 that G.S. 90A-48.2, 90A-48.4, and 90A-48.5, as enacted by Section 1 of this act,
14 become effective 1 July 2005. Sections 2 and 6 through 11 of this act are effective when
15 the act becomes law. Sections 3, 4, and 5 of this act become effective 1 July 2005.