

1 15A NCAC is proposed as a temporary rule as follows:  
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3 **15A NCAC 18A .1971 ENGINEERED OPTION PERMIT**

4 (a) An Engineered Option Permit (EOP) on-site wastewater system, as defined by G.S. 130A-334(1g), is available  
5 to an owner that provides an alternative process for the siting, design, construction, approval and operation of the  
6 system without requiring the direct oversight or approval of the local health department. An owner choosing to use  
7 the EOP shall employ the services of a Professional Engineer (PE) licensed pursuant to G.S. 89C to prepare signed  
8 and sealed drawings, specifications, plans and reports for the design, construction, operation and maintenance of the  
9 wastewater system in accordance with G.S. 130A-336.1, and this Rule. Except as provided for in G.S. 130A-336.1  
10 and in this Rule, an EOP system is subject to all applicable requirements of Article 11 of Chapter 130A of the  
11 General Statutes and all Rules of this Section. Nothing in this Rule shall be construed as allowing any professional  
12 to provide services which they have neither the educational background, expertise, or license to perform, or which is  
13 beyond their scope of work as provided for pursuant to G.S. 130A-336.1 and the applicable statutes for their  
14 respective profession.

15 (b) SITE EVALUATION: Prior to the preparation and submittal a Notice of Intent to Construct an EOP system,  
16 pursuant to G.S. 130A-336.1(b), the owner shall employ a Licensed Soil Scientist (LSS) pursuant to G.S. 89F to  
17 conduct an evaluation of soil conditions and site features in the proposed initial and repair drainfield areas for the  
18 EOP system, pursuant to G.S. 130A-335(a1) and G.S. 130A-336.1(e)(2). The owner shall employ an LSS or a  
19 Licensed Geologist (LG) pursuant to G.S. 89E to evaluate geologic or hydro-geologic features as may be  
20 appropriate for the proposed site. This evaluation and documenting report shall be in accordance with the Rules of  
21 this Section, and adhere to accepted standards of practice applicable to the type and size of the EOP system.

22 (c) NOTICE OF INTENT TO CONSTRUCT: The Notice of Intent to Construct an EOP System to be submitted by  
23 the owner or a PE authorized as the legal representative of the owner to the local health department (LHD) in the  
24 county where the facility is located shall be on the common form provided by the Department. It shall include all of  
25 the information specified in G.S. 130A-336.1(b)(1 through 9), and include the following:

- 26 (1) Information required in 15A NCAC .1937(d) and 15A NCAC .1937(e) of this Section for  
27 Improvement Permit and Construction Authorization applications, respectively.  
28 (2) Identification and location on the site plan of existing or proposed potable water supplies,  
29 geothermal heating and cooling wells, groundwater monitoring wells, and sampling wells for the  
30 facility. The PE shall specifically reference any existing permit issued for a private drinking water  
31 supply or a wastewater system on both the subject and adjoining properties to provide  
32 documentation of compliance with setback requirements in Rule 15A NCAC 18A .1950 of this  
33 Section.  
34 (3) Documentation that the proposed wastewater system complies with all applicable federal, State,  
35 and local laws, regulations, rules and ordinances in accordance with G.S. 130A-336.1(e)(6).  
36 (4) Documentation shall be provided that the ownership and control requirements of Rule 15A NCAC  
37 18A .1938(j) of this Section and the requirements for a multi-party agreement in Rule 15A NCAC  
38 18A .1937(h) of this Section shall be met, as applicable.

1           (5) Documentation of insurance coverage for the PE, LSS, LG and on-site wastewater contractor, as  
2           applicable.

3 (d) LHD NOTICE OF INTENT COMPLETENESS REVIEW: The completeness review shall be performed by the  
4 LHD pursuant to G.S. 130A-336.1(c). The LHD shall provide written confirmation of the completeness  
5 determination on the common form provided by the Department.

6 (e) DESIGN PLANS AND SPECIFICATIONS: The PE design, plans and specifications for the EOP System shall  
7 be in accordance with the Rules of this Section, conditions in system approvals when a system is used that has been  
8 approved by the Department or Commission under Rule 15A NCAC 18A .1969 of this Section, and in adherence  
9 with accepted standards of practice applicable to the type and size of the EOP system. The PE design shall  
10 incorporate findings and recommendations on soil and site conditions, limitations and any site modifications  
11 recommended by the LSS or LG, as applicable. When the PE choses to employ pretreatment technologies not yet  
12 approved in this State, pursuant to G.S. 130A-336.1(e)(1), the engineering report shall identify the proposed  
13 technology, and any associated installation, operation, maintenance and monitoring requirements, including  
14 manufacturers endorsements associated with its proposed use.

15 (f) CONSTRUCTION OF WASTEWATER SYSTEM: After a decision of completeness of the Notice of Intent is  
16 made by the local health department pursuant to G.S. 130A-336.1(c), permits for construction of the facility may be  
17 issued by the local building code enforcement officials, pursuant to G.S. 130A-338. Construction of the wastewater  
18 system shall not commence until the system design, plans, and specifications have been provided to the on-site  
19 wastewater system contractor and the signed and dated statement by the contractor is provided to the owner,  
20 pursuant to G.S. 130A-336.1(e)(4)(b). The owner is responsible for assuring no modifications or alterations to the  
21 site for the wastewater system or the system repair area are made as a result of any construction activities for the  
22 facility before or after construction of the wastewater system, unless specifically approved by the design  
23 professional engineer, licensed soil scientist or licensed geologist, as applicable.

24 (g) POST CONSTRUCTION CONFERENCE: Attendance of the Post-Construction Conference required pursuant  
25 G.S. 130A-336.1(j) by the LHD and by the Department (for systems designed for the collection, treatment and  
26 disposal of industrial process wastewater or to treat greater than 3000 gallons per day) is for the purpose of  
27 observing the location of the system and start-up conditions.

28 (h) AUTHORIZATION TO OPERATE: Prior to providing written confirmation for Authorization to Operate, the  
29 LHD shall receive the following:

30           (1) Documentation that all reporting requirements identified in G.S. 130A-336.1(l) have been met;

31           (2) Information listed in Rule .1938(h) of this Section;

32           (3) System start-up documentation, including applicable baseline operating parameters for all  
33           components; and

34           (4) Documentation by the owner or their legal representative that all necessary legal agreements,  
35           including easements, encroachments, multi-party agreements, and other documents have been  
36           properly prepared, executed and recorded in accordance with Rule .1937(h) of this Section and  
37           Rule .1938(j) of this Section.

1 The LHD shall use the State-approved form for written confirmation.

2 (i) OPERATION: The owner of the wastewater system approved pursuant to the EOP is responsible for  
3 maintaining the wastewater system in accordance with the written operation and management program required in  
4 G.S. 130A-336.1(i)(1) and 15A NCAC 18A .1961 of this Section.

5 (1) The operation and management program shall identify the system classification in accordance with  
6 Table V(a) of Rule .1961 of this Section.

7 (2) The management entity shall inspect the system and submit reports in accordance with Rule  
8 .1961(f) of this Section.

9 (3) The owner shall notify the LHD and the PE who designed and certified the system permitted  
10 under this Rule of any site changes, changes in ORC or ORC duties, or changes in ownership.

11 (j) SYSTEM MALFUNCTION: For systems permitted under this Rule, the owner shall contact the design PE for  
12 determination of the cause of system malfunction in accordance with Rule 15A NCAC 18A .1961(a) of this Section.  
13 For repair of a malfunctioning EOP system, this Rule shall be followed in conjunction with Rule .1961(l) of this  
14 Section. The management entity as identified in Table V(b) of Rule .1961 of this Section shall notify the LHD  
15 within 48 hours of the system malfunction in accordance with Rule .1961(f) of this Section.

16 (k) LHD RESPONSIBILITIES: The LHD is responsible for the following activities related to the EOP system:

17 (1) Perform a completeness review of the Notice of Intent to Construct to verify inclusion of  
18 information required by this Rule and indicate written verification of completeness determination;

19 (2) Attend the post-construction conference to observe location of system components and start-up  
20 conditions;

21 (3) Written confirmation of Authorization to Operate upon receipt of complete information required  
22 by this Rule;

23 (4) File all EOP documentation consistent with current permit filing procedures at the LHD;

24 (5) Submit a copy of the Notice of Intent common form and written confirmation of Authorization to  
25 Operate to the State, as applicable;

26 (6) Review the performance and operation reports submitted in accordance with Table V(b) of Rule  
27 .1961 of this Section;

28 (7) Perform on-site compliance inspections of the wastewater system in accordance with Table V(a)  
29 of Rule .1961 of this Section;

30 (8) Investigate EOP system complaints;

31 (9) Issue a notice of violation for systems determined to be malfunctioning in accordance with Rule  
32 15A NCAC 18A .1961(a) of this Section. The LHD shall direct the owner to contact the design  
33 PE for determination of the reason of the malfunction and development of a Notice of Intent to  
34 Construct for repairs; and

35 (10) Require an owner receiving a notice of violation to pump and haul sewage in accordance with  
36 Rule .1961(m) of this Section.

1 (I) CHANGE IN PROFESSIONAL ENGINEER: If the design PE is no longer available to complete or follow up  
2 with the project, the design package and all responsibilities and liabilities may be transferred to another PE if  
3 applicable revisions to the Notice of Intent are submitted to the LHD in addition to notarized signatures of the  
4 Owner and the new PE accepting the design and their agreement to adhere to the conditions and their responsibilities  
5 under the EOP.

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7 History Note: Authority G.S. 130A-334;