

1 15A NCAC 18A .1971 is adopted with changes as published in 31:11 NCR 1104-1107 as follows:

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3 **15A NCAC 18A .1971 ENGINEERED OPTION PERMIT**  
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5 (a) ~~An Engineered Option Permit (EOP) on site wastewater system, as defined by G.S. 130A 334(1g) provides an~~  
6 ~~alternative process for the siting, design, construction, approval, and operation of a wastewater system without~~  
7 ~~requiring the direct oversight or approval of the local health department. An owner choosing to use an Engineered~~  
8 ~~Option Permit (EOP) for on-site wastewater systems pursuant to G.S. 130A-336.1 the EOP shall employ the services~~  
9 ~~of a registered professional engineer licensed pursuant to G.S. 89C to prepare signed and sealed drawings,~~  
10 ~~specifications, plans, and reports for the design, construction, operation, and maintenance of the wastewater system.~~  
11 ~~system in accordance with G.S. 130A 336.1 and this Rule. Except as provided for in G.S. 130A 336.1 and in this~~  
12 ~~Rule, an EOP system is subject to all applicable requirements of Article 11 of Chapter 130A of the General Statutes~~  
13 ~~and all rules of this Section. Nothing in this Rule shall be construed as allowing any licensed professional to provide~~  
14 ~~services for which he or she has neither the educational background, expertise, or license to perform, or is beyond his~~  
15 ~~or her scope of work as provided for pursuant to G.S. 130A 336.1 and the applicable statutes for their respective~~  
16 ~~profession.~~

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

25 (c) ~~NOTICE OF INTENT TO CONSTRUCT: The NOIC NOI for an EOP System is to shall~~ ~~be submitted by the~~  
26 ~~owner or a registered professional engineer authorized as the legal representative of the owner to the local health~~  
27 ~~department in the county where the facility design unit is located. The NOIC NOI shall be submitted on the common~~  
28 ~~form provided by the Department. The common form is available by accessing the Department's website at~~  
29 ~~<http://ehs.ncpublichealth.com/oswp/docs/rules/EOPCommonFormNovember-1-2016.pdf>. It shall include all of the~~  
30 ~~information specified in G.S. 130A-336.1(b) and the following:~~

- 31 (1) ~~The licensed soil scientist's, licensed geologist's, and on-site wastewater system contractor's name,~~  
32 ~~license number, address, e-mail address, and telephone number; number.~~
- 33 (2) Information required in Rules .1937(d) and .1937(e) of this Section for Improvement Permit and  
34 Construction Authorization applications;
- 35 (3) Identification and location on the site plan of existing or proposed potable water supplies,  
36 geothermal heating and cooling wells, and groundwater monitoring wells ~~wells, and sampling wells~~  
37 ~~for the proposed site. facility. The registered professional engineer shall specifically reference any~~

1 existing permit issued for a private drinking water supply, public water supply, or a wastewater  
2 system on both the subject and adjoining properties to provide documentation of compliance with  
3 setback requirements in Rule.1950 of this Section; and

4 ~~(4)~~ Documentation that the proposed wastewater system complies with applicable federal, State, and  
5 local laws, regulations, rules and ordinances in accordance with G.S. 130A-336.1(e)(6);

6 ~~(5)~~ Documentation that the ownership and control requirements of Rule .1938(j) of this Section and the  
7 requirements for a multi-party agreement in Rule .1937(h) of this Section shall be met, as applicable;  
8 and

9 ~~(4)(6)~~ Proof of insurance for the ~~registered~~ professional engineer, ~~licensed~~ soil scientist, ~~licensed~~ geologist,  
10 and on-site wastewater system contractor ~~contractor~~, as applicable.

11 ~~(d) LOCAL HEALTH DEPARTMENT NOTICE OF INTENT COMPLETENESS REVIEW: The completeness~~  
12 ~~review shall be performed by the authorized agent of the local health department pursuant to G.S. 130A-336.1(e). The~~  
13 ~~local health department shall provide written confirmation of the completeness determination on the common form~~  
14 ~~provided by the Department. If the local health department fails to act on an NOIC NOI within 15 business days of~~  
15 ~~receipt, the owner or registered professional engineer may treat the failure to act as a determination of completeness.~~

16 ~~(d)(e) DESIGN PLANS AND SPECIFICATIONS: The registered professional engineer design, plans, and~~  
17 ~~specifications for the EOP stem shall be in accordance with the rules of this Section and with adherence to accepted~~  
18 ~~standards of practice applicable to the type and size of the EOP system. The registered professional engineer design~~  
19 ~~shall incorporate findings and recommendations on soil and site conditions, limitations, and any site modifications~~  
20 ~~specified by the licensed soil scientist or licensed geologist, as applicable, and in accordance with G.S. 130A-~~  
21 ~~336.1(k)(1). applicable. When the registered professional engineer chooses to employ pretreatment technologies not~~  
22 ~~yet approved in this State, pursuant to G.S. 130A-336.1(e)(1), the engineering report shall specify the proposed~~  
23 ~~technology, and the associated siting, installation, operation, maintenance, and monitoring requirements, including~~  
24 ~~manufacturers endorsements associated with its proposed use.~~

25 ~~(e)(f) CONSTRUCTION OF WASTEWATER SYSTEM: No building permit for construction, location, or relocation~~  
26 ~~shall be issued until after a decision of completeness of the ~~(NOIC)~~ NOI is made by the local health department, or~~  
27 ~~the local health department fails to act within 15 business days, ~~days~~, pursuant to G.S. 130A-336.1(e). Construction~~  
28 ~~of the wastewater system shall not commence until the system design plans ~~design, plans~~, and specifications have~~  
29 ~~been provided to the on-site wastewater system contractor and the signed and dated statement by the contractor is~~  
30 ~~provided to the owner. ~~owner~~, pursuant to G.S. 130A-336.1(e)(4)(b). The owner is shall be responsible for assuring~~  
31 ~~no modifications or alterations to the site for the wastewater system or the system repair area are made as a result of~~  
32 ~~any construction activities for the facility ~~design unit~~ before or after construction of the wastewater system, unless~~  
33 ~~specifically approved by the registered professional engineer, licensed soil scientist, or licensed geologist, as~~  
34 ~~applicable.~~

35 ~~(g) POST CONSTRUCTION CONFERENCE: Attendance of the Post Construction Conference required pursuant~~  
36 ~~to G.S. 130A-336.1(j) by the authorized agent of the local health department and by the Department (for systems~~

1 ~~designed for the collection, treatment, and disposal of industrial process wastewater or to treat greater than 3,000~~  
2 ~~gallons per day) is for the purpose of observing the location of the system and start-up conditions.~~

3 ~~(f)(4)~~ AUTHORIZATION TO OPERATE: Prior to providing written confirmation for Authorization to Operate, the  
4 local health department shall receive the following:

- 5 (1) Documentation that all reporting requirements identified in G.S. 130A-336.1(l) have been met;
- 6 (2) Information set forth in Rule .1938(h) of this Section;
- 7 (3) System start-up documentation, including applicable baseline operating parameters for all  
8 components;
- 9 (4) Documentation by the owner or their legal representative that all necessary legal agreements,  
10 including easements, encroachments, multi-party agreements, and other documents have been  
11 properly prepared, executed and recorded in accordance with Rules .1937(h) and .1938(j) of this  
12 Section; and
- 13 (5) Record drawings.

14 The local health department shall use the ~~State approved~~ common form for written confirmation.

15 ~~(g)(i)~~ OPERATION: The owner of the wastewater system approved pursuant to the EOP is shall be responsible for  
16 maintaining the wastewater system in accordance with the written operation and management program required in  
17 G.S. 130A-336.1(i)(1) and Rule .1961 of this Section.

- 18 ~~(1) The operation and management program shall identify the system classification in accordance with~~  
19 ~~Table V(a) of Rule .1961 of this Section.~~
- 20 ~~(2) The operator required pursuant to G.S. 130A-336.1(i)(2) shall inspect the system and submit reports~~  
21 ~~in accordance with Rule .1961(f) of this Section and the written operations and management~~  
22 ~~program provided by the design professional engineer.~~
- 23 ~~(3) The owner shall notify the local health department and the registered professional engineer who~~  
24 ~~designed and certified the system permitted under this Rule of any site changes, changes in the~~  
25 ~~operator duties, or any changes in ownership.~~

26 ~~(h)(j)~~ SYSTEM MALFUNCTION: For systems permitted under this Rule, the owner shall contact the registered  
27 professional engineer, licensed soil scientist, licensed geologist, and contractor, as appropriate, for determination of  
28 the cause of system malfunction in accordance with Rule .1961(a) of this Section. For repair of a malfunctioning EOP  
29 system, this Rule shall be followed in conjunction with Rule ~~.1961-1961(4)~~ of this Section. The operator shall notify  
30 the local health department within 48 hours of the system malfunction. ~~malfunction in accordance with Rule .1961(f)~~  
31 ~~of this Section.~~

32 ~~(i)(k)~~ SYSTEM DESIGN UNIT CHANGE OF USE: For systems permitted under this Rule, the The owner of an  
33 EOP system who wishes to change the use of the design unit shall contact the ~~registered~~ professional engineer, ~~licensed~~  
34 soil scientist, ~~licensed~~ geologist, and on-site wastewater system contractor, as ~~appropriate, for to determine~~  
35 ~~determination as to whether or not~~ the current systems system would continue to ~~meet the~~ meets all the requirements  
36 of the Rules of this Section for a the proposed facility change of use. The ~~registered~~ professional engineer, ~~licensed~~  
37 soil scientist, ~~licensed~~ geologist, and or on-site wastewater system contractor ~~contractor, as appropriate,~~ shall

1 determine ~~what, if any, modifications~~ modifications, if any, that shall be made necessary to for the wastewater system  
2 to continue to meet all the requirements of the Rules of this Section ~~based on following~~ the proposed change of use.  
3 A ~~new NOIC NOI~~ reflecting the change of use and any required modifications to the system shall be submitted to the  
4 local health department and follow the EOP permitting process, in accordance with Paragraph (e) of this Rule for any  
5 proposed system modifications.

6 ~~(j)(4)~~ LOCAL HEALTH DEPARTMENT RESPONSIBILITIES: The local health department is responsible for the  
7 following activities related to the EOP system:

8 ~~(1)~~ Perform a completeness review of the NOIC NOI and provide written verification of completeness  
9 determination;

10 ~~(2)~~ Attend the post construction conference to observe location of system components and start up  
11 conditions;

12 ~~(3)~~ Provide written confirmation of Authorization to Operate upon receipt of complete information  
13 required by this Rule;

14 ~~(1)(4)~~ File all EOP documentation consistent with current permit filing procedures at the local health  
15 department;

16 ~~(2)(5)~~ Submit a copy to the Department of the ~~final~~ NOI common form and written confirmation of  
17 Authorization to Operate; ~~Operate to the Department~~;

18 ~~(3)(6)~~ Review the performance and operation reports submitted in accordance with Table V(b) of Rule  
19 .1961 of this Section;

20 ~~(4)(7)~~ Perform on-site compliance inspections of the wastewater system in accordance with Table V(a) of  
21 Rule .1961 of this Section;

22 ~~(5)(8)~~ Investigate complaints regarding EOP systems; ~~system complaints~~;

23 ~~(6)(9)~~ Issue a notice of violation for systems determined to be malfunctioning in accordance with Rule  
24 .1961(a) of this Section. The local health department shall direct the owner to contact the ~~registered~~  
25 professional engineer, ~~licensed~~ soil scientist, ~~licensed~~ geologist, and on-site wastewater system  
26 contractor, as appropriate, for determination of the reason of the malfunction and development of a  
27 NOI for repairs; and

28 ~~(7)(10)~~ Require an owner receiving a notice of violation to pump and haul sewage in accordance with Rule  
29 .1961(m) of this Section.

30 ~~(k)(m)~~ CHANGE IN LICENSED PROFESSIONALS: The Owner may contract with another licensed professional  
31 to complete an EOP project. An updated ~~(NOIC) NOI~~ shall be submitted to the local health department.

32 (l) Nothing in this Rule shall be construed as allowing any licensed professional to provide services for which he or  
33 she has neither the educational background, expertise, or license to perform, or is beyond his or her scope of work as  
34 provided for pursuant to G.S. 130A-336.1 and the applicable statutes for their respective professions.

36 *History Note: Authority G.S. 130A-335; 130A-336.1;*

37 *Temporary Adoption Eff ~~July 1, 2016~~ July 1, 2016;*

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*Eff. April 1, 2017.*