15A NCAC 18E .1306 SYSTEM MALFUNCTION AND REPAIR

(a) This Rule identifies the responsibilities of the LHD and the owner when a system is malfunctioning, totally or partially destroyed, or otherwise determined to require repair.

(b) The LHD or Department shall issue a written NOV to the wastewater system owner in accordance with Rule .0302(c) of this Subchapter.

(c) The wastewater system shall be repaired within 30 days of the date on the NOV issued by the Department or LHD unless the NOV specifies a different time frame for the repair based on site-specific factors, such as the severity of the repair, wastewater backing up into a restaurant or discharging into SA waters, or adverse weather that delays construction of the repair. The following steps shall be followed to remedy a malfunctioning wastewater system:

(1) The owner shall apply for a repair in accordance with Section .0200 of this Subchapter, unless only maintenance is required to bring the wastewater system into compliance.

(2) The wastewater system shall be repaired to eliminate any public health hazard. The owner of the system may request, on a form provided by the Department, that the authorized agent, AOWE, or PE use their best professional judgement to develop a repair that should enable the wastewater system to function in a manner that complies with Rule .1303(a)(1) of this Section. The LHD, AOWE, or PE shall document on the form the aspects of the rules that are being altered with the use of best professional judgement to repair the wastewater system. The owner of the wastewater system shall be liable for any damages caused by a system repaired in this manner and shall agree in writing to all terms and conditions set forth by the LHD, AOWE, or PE that developed the repair, including any operation and maintenance requirements. This written agreement shall be attached to the CA, OP, NOI, or ATO, as applicable. Best professional judgement shall not be used when:

(A) there are reductions in setbacks to drinking water wells less than what is required in Rule .0601 of this Subchapter;

(B) there are reductions in setbacks to surface water bodies greater than 50 percent of the allowed setbacks as indicated in Rule .0601 of this Subchapter; or

(C) there is no reasonable expectation that the repaired wastewater system will function to eliminate public health hazards.

(3) When necessary to protect the public health, the Department or LHD shall require the owner of a malfunctioning system to pump and haul sewage to an approved wastewater system during the time needed to repair the wastewater system. This requirement shall be included in the NOV issued to the owner.

(d) If no repair options are available for the wastewater system in accordance with Paragraph (c) of this Rule, the LHD may issue a CA and OP for a permanent pump and haul system. The applicant shall submit an application to the LHD for the permanent pump and haul system. The application and permanent pump and haul system shall meet the following conditions:

(1) The owner shall provide the following information as part of the application:

(A) a report that the system cannot be repaired by connection to a system approved under this Section or a system approved under G.S. 143, Article 21;

(B) a contract with a septage management firm permitted in accordance with G.S. 130A-291.1 to pump and haul the sewage;

(C) documentation that the wastewater system has been approved under this Subchapter or in accordance with 15A NCAC 02H or 15A NCAC 02T to accept sewage; and

(D) documentation from the facility receiving the sewage confirming that the facility has the capacity for the additional sewage and agrees to accept it.

(2) The LHD shall design the pump and haul system based on the following criteria:

(A) tankage with a minimum of five days storage capacity and two days emergency storage capacity;

(B) high-water alarm set to go off with two days of emergency storage capacity left in the tankage; and

(C) telemetry unit that contacts the septage management firm.

(3) The owner of a non-residential facility may request a reduction in the five day storage requirement, if the owner can document the ability to have the tanks pumped out with only 24 hours' notice. The total tank capacity shall never be less than the minimum required septic tank and pump tank capacity required by Section .0800 of this Subchapter.

(4) Tanks shall be approved by the LHD for permanent pump and haul if shown to be structurally sound, watertight, and of a capacity needed based on the DDF and projected pumping frequency. Existing tanks may be used for permanent pump and haul if the tanks meet the requirements in this Subparagraph.

(5) Prior to issuing the OP, the LHD shall receive from the owner a contract with a Management Entity for inspection and maintenance of the system.

(6) A non-transferrable OP, valid for a period of five years, shall be issued to the pump and haul system owner.

(e) A malfunctioning wastewater system that has been disconnected from the facility for any reason shall be repaired prior to reuse.

(f) If the dispersal field in a malfunctioning wastewater system is found to be nonrepairable, the dispersal field shall not be used. The system owner shall be required to abandon the system to protect the public health and safety as specified in Rule .1307 of this Section.

(g) For facilities with a malfunctioning wastewater system installed prior to July 1, 1977, the authorized agent, AOWE, or PE may use their best professional judgement to repair the system.

(h) For facilities with a wastewater disposal method installed prior to July 1, 1977, which has been in continual use and acts as the sole source of wastewater disposal, the authorized agent, AOWE, or PE may use their best professional judgement to repair the wastewater disposal method.

(i) Legal remedies may be pursued, in accordance with G.S. 130A, Article 1, Part 2, after an authorized agent has observed and documented one or more malfunctioning conditions and issued an NOV.

History Note: *Authority G.S. 130A-291.1; 130A-291.2; 130A-335(e) and (f); S.L. 2023-77, s.20; S.L. 2024-49, s.4.41;*
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