

MD Environmental Code Title 9 Subtitle 11A

§ 9-11A-01. Definitions.

- (a)** In this subtitle the following words have the meanings indicated.
- (b)** "Board" means the State Board of On-Site Wastewater Professionals.
- (c)** "License" means any category of professional license issued by the Board to an individual to provide on-site wastewater services in the State.
- (d)**
- (1)** "On-site wastewater services" means any activity associated with the design, installation, operation and maintenance, pumping, repair, or property transfer inspection of an on-site wastewater system.
 - (2)** "On-site wastewater services" does not include any type of on-site wastewater system inspection other than a property transfer inspection.
- (e)**
- (1)** "On-site wastewater system" means:
 - (i)** A wastewater system designed to treat and dispose of effluent on:
 - 1.** The same property that produces the wastewater; or
 - 2.** An easement; or
 - (ii)** A holding tank.
 - (2)** Except as provided in paragraph (3) of this subsection, "on-site wastewater system" includes a septic or any other on-site sewage disposal system.
 - (3)** "On-site wastewater system" does not include a wastewater treatment system that:
 - (i)** Requires a discharge permit from the Department; or
 - (ii)** Treats 5,000 or more gallons per day.

§ 9-11A-02. Application of Subtitle.

(a) This subtitle does not apply to an individual employed by a local, State, or federal agency while performing the duties of that employment.

(b) Nothing in this subtitle prevents or prohibits a local government from imposing requirements, standards, or fees that are more stringent than the requirements, standards, or fees established in this subtitle.

§ 9-11A-03. Reserved.

§ 9-11A-04. Reserved.

§ 9-11A-05. State Board of On-Site Wastewater Professionals — Purpose — Final actions by Board.

(a) There is a State Board of On-Site Wastewater Professionals in the Department.

(b) The purpose of the Board is to regulate individuals who provide on-site wastewater services or engage in the business of providing on-site wastewater services in the State for the purpose of safeguarding the life, health, property, environment, and public welfare of the residents of the State.

(c) Any final action of the Board is subject to review by the Secretary or the Secretary's designee.

§ 9-11A-06. Board members — Oath — Terms — Removal of Member.

(a)

(1) The Board consists of the following members:

- (i) The Secretary, or the Secretary's designee;
- (ii) Six individuals appointed by the Governor with the advice of the Secretary and with the advice and consent of the Senate;
- (iii) One individual designated by the Maryland Onsite Wastewater Professionals Association; and
- (iv) One representative of the Maryland Conference of Local Environmental Health Directors, designated by the Maryland Conference of Local Environmental Health Directors.

(2) Of the members of the Board:

- (i) At least five shall be on-site wastewater professionals; and
- (ii) Two shall be consumer members.

(3)

(i) The on-site wastewater professional members of the Board shall be representative of all geographic regions of the State.

(ii) Before July 1, 2026, the on-site wastewater professional members of the Board shall:

- 1. Be licensed by a local government; or
- 2. Hold a letter from the local health department stating that the member has been providing on-site wastewater services for a minimum of 7 years and is in good standing.

(iii) On and after July 1, 2026, and in accordance with this subtitle, the on-site wastewater professional members of the Board shall be licensed by the Board.

(4) Each consumer member of the Board:

- (i) Shall be a member of the general public;
- (ii) May not be a licensee or otherwise be subject to regulation by the Board;
- (iii) May not be required to meet the qualifications for the professional members of the Board; and
- (iv) May not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(b) While a member of the Board, a consumer member may not:

- (1)** Have a financial interest in or receive compensation from a person regulated by the Board; or
- (2)** Grade an examination given by or for the Board.
- (c)** Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.
- (d)**
 - (1)** The term of a voting member is 3 years.
 - (2)** A voting member may serve two terms consecutively.
 - (3)** The terms of voting members are staggered as required by the terms provided for members of the Board on July 1, 2022.
 - (4)** At the end of a term, a voting member continues to serve until a successor is appointed and qualifies.
 - (5)** A voting member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.
- (e)** The Governor may remove a voting member for incompetence, misconduct, or on recommendation of a majority of the Board.

§ 9-11A-07. Election of officers.

- (a)** The members of the Board shall designate a chair, a vice chair, and a secretary.
- (b)** The Board shall determine the means of the election of officers.

§ 9-11A-08. Meetings — Quorum — Compensation — Staffing.

- (a)** A majority of the members then serving on the Board is a quorum.
- (b)** The Board shall determine the times and places of its meetings.
- (c)** Each member of the Board is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (d)** The Board may employ a staff in accordance with the State budget.

§ 9-11A-09. Duties of Board.

The Board, in consultation with the Department, shall:

- (1)** Make recommendations to the Department on the adoption of regulations to carry out the provisions of this subtitle, including:
 - (i)** Licensing procedures, definitions, qualifications, and continuing education requirements for the following categories:
 - 1.** Designer;
 - 2.** Master installer and journey installer;
 - 3.** Master on-site wastewater property transfer inspector and journey on-site wastewater property transfer inspector;
 - 4.** Master pumper and journey pumper; and
 - 5.** Master operation and maintenance provider and journey operation and maintenance provider;
 - (ii)** Certification procedures, definitions, qualifications, and continuing education requirements for the following categories:
 - 1.** Designer;
 - 2.** Advanced treatment installer;
 - 3.** Mound installer;
 - 4.** Drip dispersal installer;
 - 5.** Pump dispersal system installer;
 - 6.** Advanced treatment operation and maintenance provider;
 - 7.** Advanced treatment unit pumper;
 - 8.** Advanced treatment property transfer inspector; and
 - 9.** Any other category associated with a specific on-site wastewater treatment technology; and
 - (iii)** Minimum standards for any processes, procedures, techniques, and materials associated with on-site wastewater systems;
- (2)** Review regulations proposed by the Department to carry out the provisions of this subtitle;
- (3)** Establish a code of ethics provided by the Department for:
 - (i)** Members of the Board; and
 - (ii)** Individuals licensed and certified by the Board;
- (4)** On or before June 1, 2024, make recommendations to the Department for establishing the licensing and certification procedures specified under item (1) of this section;
- (5)** Collect and account for the fees provided for under this subtitle; and

(6) Keep a current record of all individuals and entities licensed under this subtitle.

§ 9-11A-10. Fees for licenses and services — Collected into Fund.

(a)

(1) The Department, in consultation with the Board, shall set by regulation reasonable fees for the issuance and renewal of licenses and other services that the Board provides.

(2) The fees shall be set to produce funds to approximate the costs of the Board's creation, maintenance, reasonable administrative costs, and ongoing activities.

(b) The Board shall publish a schedule of the fees.

(c) The Board shall pay all funds collected under this subtitle into the On-Site Wastewater Professionals Fund established under § 9-11A-11 of this subtitle.

§ 9-11A-11. On-Site Wastewater Professionals Fund — Purpose — Funding — Uses — Funds supplemental.

(a) In this section, “Fund” means the On-Site Wastewater Professionals Fund.

(b) There is an On-Site Wastewater Professionals Fund.

(c) The purpose of the Fund is to provide funding to maintain the Board.

(d) The Board shall administer the Fund.

(e)

(1) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) All fees, penalties, and fines collected under this subtitle;

(2) Money appropriated in the State budget to the Fund;

(3) Interest earnings of the Fund;

(4) Donations to the Fund; and

(5) Any other money from any other source accepted for the benefit of the Fund.

(g) The Fund shall be used only to pay for the cost of creating the Board, maintenance of the Board, reasonable administrative costs, and implement the provisions of this subtitle.

(h)

(1) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(2) Any interest earnings of the Fund shall be credited to the Fund.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

(j) Money expended from the Fund to maintain the Board or implement the provisions of this subtitle is supplemental to and is not intended to take the place of funding that otherwise would be appropriated for the Board.

§ 9-11A-12. Annual report by Board.

On or before December 31 each year, the Board shall prepare and submit an annual report to the Secretary on:

- (1)** The status of the On-Site Wastewater Professionals Fund;
- (2)** Revenues and expenditures from the On-Site Wastewater Professionals Fund;
- (3)** The efficiency of the regulations adopted by the Department to implement the provisions of this subtitle;
- (4)** Compliance with the regulations adopted by the Department to implement the provisions of this subtitle; and
- (5)** Based on the factors specified in items (1) through (4) of this section, the necessity to review and adjust the fees set by the Department by regulation.

§ 9-11A-13. Reserved.

§ 9-11A-14. Reserved.

§ 9-11A-15. License requirement for providing on-site wastewater services — Qualifications — Application — Terms of license.

(a)

(1) Except as provided in paragraph (2) of this subsection, an individual shall be licensed by the Board in accordance with this subtitle before the individual may provide on-site wastewater services in the State.

(2)

(i) An individual who provides on-site wastewater services in the State may continue to provide on-site wastewater services until the licensing requirements are established by the Department by regulation if the individual:

- 1.** Complies with all applicable State and local laws and regulations;
- 2.** On or before December 31, 2022, pays to the Department a fee of \$150; and
- 3.** Every 2 years thereafter until the Department sets fees in accordance with § 9-11A-10 of this subtitle, pays to the Department a renewal fee of \$150.

(ii) All fees collected by the Department under this paragraph shall be:

1. Paid into the On-Site Wastewater Professionals Fund established under §9-11A-11 of this subtitle; and
2. Used by the Department to:
 - a. Pay for the creation of the Board
 - b. Cover reasonable administrative costs; and
 - c. Implement the provisions of this subtitle.

(b) To qualify for a license, an applicant shall meet the requirements established by the Department by regulation.

(c) To apply for a license, an applicant shall:

(1) Submit to the Board an application on the form that the Board provides; and

(2) Pay to the Board the required application fee set by the Department by regulation.

(d) A license issued by the Board in accordance with this subtitle is valid for 2 years.

(e) In accordance with the requirements established by the Department by regulation, the Board may issue a certification to an individual to perform specific tasks associated with on-site wastewater services if the individual:

- (1)** Is licensed by the Board; or
- (2)** Holds a professional license that is approved by the Board.

§ 9-11A-16. Denial, reprimand, suspension or revocation of licenses.

Subject to the hearing requirements in § 9-11A-17 of this subtitle, the Board may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the applicant or licensee:

- (1)** Violates any provision of this subtitle or any regulation adopted under this subtitle;
- (2)** Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (3)** Fraudulently or deceptively uses a license; or
- (4)** Is found guilty of gross negligence, incompetence, or misconduct while providing on-site wastewater services.

§ 9-11A-17. Hearing before Board — Oath by Board — Appeal of Board decision.

(a) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board takes any final action under § 9-11A-16 of this subtitle it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Board may administer oaths in connection with any proceeding under this section.

(d) If, after due notice, the applicant or licensee against whom the action is contemplated fails or refuses to appear, the Board may hear and determine the matter.

(e) Any person aggrieved by a final decision of the Board in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§ 9-11A-18. Reserved.

§ 9-11A-19. Reserved.

§ 9-11A-20. License required of service provider — Restrictions on handling license.

(a) Except as provided in § 9-11A-15(a) of this subtitle, an individual may not provide, attempt to provide, or offer to provide on-site wastewater services unless the individual is licensed by the Board.

(b) A license may not be borrowed, rented, or transferred to another individual.

§ 9-11A-21. Violations as misdemeanor — Separate offenses.

(a) A person who violates any provision of this subtitle or of any regulation adopted under this subtitle is guilty of a misdemeanor and on conviction is subject:

(1) To a fine not exceeding \$500 or imprisonment not exceeding 3 months, or both; or

(2) To a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both, for any subsequent violation of this title that occurs within 2 years of an earlier violation of this title.

(b) Each day that a person provides on-site wastewater services without a license constitutes a separate offense.

§ 9-11A-22. Civil penalties — Amount — Failure to pay — Deposit of funds collected.

(a) Instead of or in addition to any other penalties under this title, the Board may impose a civil penalty on a person who violates § 9-11A-20 of this subtitle in an amount not exceeding \$1,000 per day for all violations cited on a single day.

(b) In setting the amount of the civil penalty, the Board shall consider:

- (1)** The seriousness of the violation;
- (2)** The harm caused by the violation;
- (3)** The good faith of the violator;
- (4)** History of previous violations by the violator; and
- (5)** Other relevant factors.

(c) If a violator fails to pay a civil penalty within 30 days of its imposition by the Board, the matters shall be forwarded to the Central Collection Unit in the Department of Budget and Management for the collection of the civil penalty.

(d) The Board shall pay any penalty collected under this section into the On-Site Wastewater Professionals Fund established under § 9-11A-11 of this subtitle.

§ 9-11A-23. Administrative penalties — Amount — Failure to pay — Deposit of funds collected.

(a) Instead of or in addition to any other penalties authorized under this title, the Board may impose an administrative penalty on a person who violates this subtitle in an amount not exceeding \$1,000 per day for all violations cited on a single day.

(b) In setting the amount of the administrative penalty, the Board shall consider:

- (1)** The seriousness of the violation;
- (2)** The harm caused by the violation;
- (3)** The good faith of the violator;
- (4)** Any history of previous violations by the violator; and
- (5)** Any other relevant factors.

(c) If a violator fails to pay an administrative penalty within 90 days after the imposition of the administrative penalty by the Board, the matter shall be forwarded to the Central Collection Unit in the Department of Budget and Management for the collection of the administrative penalty.

(d) Any penalties collected under this section shall be paid into the On-Site Wastewater Professionals Fund established under § 9-11A-11 of this subtitle.