



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

Donald R. van der Vaart
Secretary

January 29, 2015

MEMORANDUM

TO: ENVIRONMENTAL REVIEW COMMISSION
The Honorable Mike Hager, Co-Chair
The Honorable Brent Jackson, Co-Chair

FROM: Neal Robbins, Director of Legislative Affairs

SUBJECT: 2014 Report on Reform of Agency Review of Engineering Work

DATE: January 29, 2015

Pursuant to S.L. 2014-120, section 29, [the Department] shall report to the Environmental Review Commission... on implementation of the following, if applicable:

- (1) The standardized procedures required by Section 29(b) of this act.
 - (2) The informal review process required by Section 29(c) of this act.
 - (3) The review of Working Job Titles required by Section 29(h) of this act.
- Please consider the attached as the formal submission this report.

If you have any questions or need additional information, please contact me by phone at (919) 707-8618 or via e-mail at neal.robbs@ncdenr.gov.

cc: Tom Reeder, Assistant Secretary for Environment, NCDENR
Linda Culpepper, Director of Waste Management, NCDENR
Tracy Davis, Director of Energy, Mineral, and Land Resources, NCDENR
Sheila Holman, Director of Air Quality, NCDENR
Jay Zimmerman, Acting Director of Water Resources, NCDENR

2014 Report on Reform of Agency Review of Engineering Work

Session Law 2014-120, Section 29

January 14, 2015

Submitted by:

North Carolina Department of Environment and Natural Resources

Overview

The 2014 Regulatory Reform Act, S.L. 2014-120, Section 29, Reform of Agency Review of Engineering Work, requires certain regulatory authorities including the Department of Environment and Natural Resources (DENR) to implement new procedures and processes in the review of regulatory submittals. The law also requires DENR to review working titles and the use of the word “engineer” for staff that review regulatory submittals and are not licensed professional engineers.

The law requires the new procedures, review process, and review of working titles to be implemented by December 1, 2014 and reported to the Environmental Review Commission before the General Assembly convenes for the 2015 legislative session.

Standardized Procedures Required by Section 29(b) of S.L. 2014-120

Subsection (b) of Section 29 requires new procedures for written correspondence with submitting parties. Specifically, it requires that the agency review and revise procedures for making revisions or requests for additional information in the course of reviewing a permit, license, or approval so that it is clearly delineated in the correspondence those revisions or requests that constitute suggestions or recommendations. For agency purposes, “suggestions or recommendations” mean those comments that are for the applicant’s consideration but are not required to proceed with the permit, license, or approval. The correspondence must identify the statutory or regulatory authority for any revisions or requests that are required

Environmental divisions responsible for reviewing regulatory submittals were directed to implement these changes to written correspondence with applicants on December 1, 2014.

The Informal Review Process Required by Section 29(c) of S.L. 2014-120

Subsection (c) of Section 29 further requires the agency to create a process for an informal internal review of designs that are sealed by a licensed Professional Engineer (PE) but not included in any existing agency guidance, manuals, or standard operating procedures.

Environmental divisions were directed to implement the following process in compliance with this subsection:

- 1) If a submitting party requests an informal internal review for an application of a design or practice sealed by a PE but not included in existing guidance, manuals or standard operating procedures, than a meeting shall be set up with the reviewing employee’s supervisor.
- 2) If this initial internal review was not conducted by a PE, the submitting party shall be notified that they may request a review by a PE on DENR staff.
- 3) If DENR does not employ a qualified and competent PE to perform the review, DENR may provide for a review by a consulting PE selected from a list developed and maintained by DENR.
- 4) If DENR does hire a consulting PE, the submitting party will be responsible for the cost of the review.

Environmental divisions responsible for reviewing regulatory submittals were directed to implement this process for informal review of innovative designs on December 1, 2014.

The Review of Working Job Titles required by Section 29(h) of S.L. 2014-120

Section 29(h) of the Regulatory Reform Act requires DENR to propose new working job titles or other administrative measures that will eliminate the public identification as "engineers" of persons reviewing regulatory submittals who are not professional engineers. The Department proposes two options, with Option 1 being the preferred option:

Option 1: Replace the word "Engineer" in any working title of an employee who is not a licensed professional engineer with "Engineering Associate."

Option 2: Replace the word "Engineer" in any working title of an employee who is not a licensed professional engineer with "Project Manager" or "Project Supervisor."