



Rockingham County Department of Health and Human Services

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SL 2014-120 Report Rockingham County Environmental Health Section

Part 1: Standardize Certain Regulatory Review Procedures

Reference Session Law 2014-120, Section 29. (b)

- I. OSWW Regulatory Submittal
 - a. Application for Improvement Permit, Construction Authorization for a new system, system repair, or expansion to an existing system submitted according to rule 15A NCAC 18A .1937 (c), (d) and (e).
 - b. Site evaluation, permitting, denial, and inspection for operation permit conducted in accordance with 15A NCAC 18A .1900 rules.
 - c. Submitting Party may request review of plans or specifications for sites with unsuitable soil or unsuitable characteristics or for drainage systems to serve two or more lots submitted by engineers or consultants prior to issuing IP/ATC according to rule 15A NCAC 18A .1938 (c) by the Regulatory Authority.
 - d. Submitting Party may request to review or be required to submit plans submitted by engineer for systems required to be designed by profession engineer according to rule 15A NCAC 18A .1938 (d), (h) and (i) by the Regulatory Authority.
 - e. Local Regulatory Authority will request State Regulatory Authority review in accordance with 15A NCAC 18A .1900 rules and State Law (see SL 2014-120 Report DHHS DPH EHS) where required by 15A NCAC 18A .1900 rules.
- II. Private Wells Program Regulatory Submittal
 - a. Application to construct, repair or abandon a private drinking water well submitted according to rule 15A NCAC 02C .0303.
 - b. Site evaluation, permitting, denial, inspection and water sampling conducted in accordance with 15A NCAC 02C rules and 15A NCAC 18A .3800 rules.
- III. Migrant Housing Preoccupancy Inspection Regulatory Submittal
 - a. Applications for Pre-occupancy inspections are received and processed according to GS 95-226(a), otherwise known as the Migrant Housing Act of North Carolina.
- IV. Food Protection Regulatory Submittals
 - a. Applications for Food Protection Regulatory Submittals are received and processed according to General Statute 130A-248 Regulation of food and lodging establishments, General Statute 130A-250 Exemptions, 15A NCAC 18A .2658 Compliance and Enforcement and 15A NCAC 18A .2659 Permits and;
 - b. 15A NCAC 18A. 2676 Informal Review Process and Appeals Procedure
- V. Hospital and Nursing Home Regulatory Submittal (Institutions)

- a. Applications for Facilities (Institutions) are received and processed according to General Statute 130A-235 Regulation of sanitation in institutions, 15A NCAC 18A .1302 Approval of Plans
- VI. Resident Camps Regulatory Submittals
 - a. Applications are received and processed according to General Statute 130A-235 Regulation of sanitation in institutions, General Statute 130A-248 Regulation of food and lodging establishments, General Statute 130A-250 Exemptions, 15A NCAC 18A .3602 Standards and Approval of Plans and 15A NCAC 18A .3603 Permits
 - b. 15A NCAC 18A. 3639 Informal Review Process and Appeals Procedure
- VII. Primitive Camp Regulatory Submittals
 - a. Applications are received and processed according to General Statute 130A-248 Regulation of food and lodging establishments, General Statute 130A-250 Exemptions, 15A NCAC 18A .3502 Primitive Experience Base Camp Permit Approval of Plans and 15A NCAC 18A .3503 Permit to Operate
 - b. 15A NCAC 18A .3519 Informal Review Process and Appeals Procedure
- VIII. Summer Camp Regulatory Submittals
 - a. Applications are received and processed according to General Statute 130A-248 Regulation of food and lodging establishments, General Statute 130A-250 Exemptions, 15A NCAC 18A .1003 Investigation and Approval and 15A NCAC 18A .1004 Permits
 - b. 15A NCAC 18A .1031 Informal Review and Appeals Procedure
- IX. Lodging Establishments Regulatory Submittals
 - a. Applications are received and processed according to General Statute 130A-248 Regulation of food and lodging establishments, General Statute 130A-250 Exemptions, 15A NCAC 18A .1802 Permits and 15A NCAC 18A .1818 Plan Review
 - b. 15A NCAC 18A .1817 Appeals Procedure
- X. Bed & Breakfast Homes Regulatory Submittals
 - a. Applications are received and processed according to General Statute 130A-248 Regulation of food and lodging establishments, General Statute 130A-250 Exemptions, 15A NCAC 18A .2202 Permits
 - b. 15A NCAC 18A .2221 Appeals Procedure
- XI. Bed & Breakfast Inns Regulatory Submittals
 - a. Applications are received and processed according to General Statute 130A-248 Regulation of food and lodging establishments, General Statute 130A-250 Exemptions, 15A NCAC 18A .3002 Permits
- XII. Local Confinement Facilities Regulatory Submittals
 - a. Applications are received and processed according to General Statute 153A-226 Sanitation and food, 15A NCAC 18A .1503 Approval of Plans
- XIII. Residential Care Facilities Regulatory Submittals
 - a. Applications are received and processed according to General Statute 130A-235 Regulation of sanitation in institutions and 15A NCAC 18A. 1602 Approval of Plans
- XIV. Adult Day Service Facilities Regulatory Submittals
 - a. Applications are received and processed according to General Statute 130A-235 Regulation of sanitation in institutions, 15A NCAC 18A .3302 Approval Of Construction And Renovation Plans

- b. 15A NCAC 18A .3335 Appeals Procedure
- XV. Child Day Cares Regulatory Submittals
 - a. Applications are received and processed according to General Statute 110-91 Mandatory standards for a license and 15A NCAC 18A .2802 Approval Of Construction And Renovation Plans
 - b. 15A NCAC 18A .2835 Appeals Procedure
- XVI. School Buildings Regulatory Submittals
 - a. School Buildings are inspected according to General Statute 130A-236. Regulation of sanitation in schools.
 - b. 15A NCAC 18A .2417 Appeals Procedure
- XVII. Public Swimming Pools Regulatory Submittals
 - a. Applications are received and processed according to General Statutes 130A-280 through 130A-282, 15A NCAC 18A .2509 Plan Review And Approval and 15A NCAC 18A .2510 Public Swimming Pool Operation Permits
- XVIII. Tattoo Regulatory Submittals
 - a. Applications are received and processed according to General Statute 130A-283 Tattooing regulated, 15A NCAC 18A .3202 Permitting

Part 2A: Informal Review Process and Procedures to Develop and Maintain a List of Review Engineers for OSWP

Reference Session Law 2014-120, Section 29. (c).

- I. Informal Internal Review Process: North Carolina Session Law 2014-120, Section 29(c) identifies two circumstances that allow a Submitting Party to request an Informal Internal Review of the LHD or OSWP review:
 - a. The Regulatory Submittal includes a design or practice sealed by a PE that is not included in the Regulatory Authority's existing guidance, manuals or standard operating procedures.
 - i. LHD Staff review the Regulatory Submittal.
 1. If requested by the Submitting Party, informal review will be conducted by
 - a. Reviewer's supervisor or,
 - b. A staff engineer (NC licensed PE) or,
 - c. OSWP Branch
 2. If neither the LHD nor OSWP Branch employs a NC licensed PE that is qualified and competent to perform the review, then:
 3. Review may be provided by a consulting NC licensed PE selected from a list developed and maintained by the Regulatory Authority in accordance with Article 3D of Chapter 143 of the North Carolina General Statutes.
 4. The Regulatory Authority may charge the Submitting Party for costs of the review by the consulting NC licensed PE.
 5. The OSWP Branch will notify the LHD, the Submitting Party and other applicable parties of the decision reached during the Informal Internal Review process.
 6. The LHD will notify the Submitting Party and other applicable parties of the decision reached during the Informal Internal Review process.
 7. The LHD has the authority to make the final decision, even if review of the Regulatory Submittal is conducted by a consulting NC licensed PE.
 - b. There is a disagreement between the reviewer of the Regulatory Submittal and the Submitting Party regarding whether statute or other regulatory authority mandates the revisions or requests for additional information made by the Regulatory Authority.
 - i. In these cases, the Regulatory Authority will conduct an informal hearing with one of the following groups, as appropriate:
 1. A review panel including the Environmental Health Director or their designee, LHD personnel, County Legal Department Representatives, Stakeholders representative(s) chosen by the Submitting Party and others as appropriate.
- II. Procedure For Developing and Maintaining a List of PEs for Informal Internal Reviews

- a. Rockingham County Environmental Health Section will look to OSWP Branch for list of PE's for informal reviews in accordance with SL 2014-120 Report DHHS DPH EHS Part 2A, IV. Procedure for Developing and Maintaining a List of PE's for Informal Internal Reviews.
- b. Rockingham County Environmental Health Section will use OSWP Branch website for this list in accordance with SL 2014-120 Report DHHS DPH EHS Part 2A, IV, F.

Part 2B: Informal Review Process and Procedures to Develop and Maintain a List of Review Engineers for Food Protection and Facilities

Reference Session Law 2014-120, Section 29. (c).

- I. This guidance is applicable to Regulatory Submittals which may be submitted by an engineer or architect for food establishment or public swimming pools and may apply to plans submitted for institutions that provide health care, confinement or educational services.
 - a. When plan approval is not granted on a submittal, the submitting party is notified of which rules are not met and what problems need to be corrected upon resubmittal.
 - b. If resubmittal does not fully comply with the rules, the process of resubmittal may be repeated or notification will be given that the plans are not approved, what rules are not met, and what the formal appeals procedure is, explaining that there is a 30-day window for formal appeals.
 - c. Differences of opinion regarding the interpretation of a rule may be resolved through an informal review as provided in rule 15A NCAC 18A .2676.

15A NCAC 18A .2676 INFORMAL REVIEW PROCESS AND APPEALS PROCEDURE

(a) If a permit holder disagrees with a decision of the local health department on the interpretation, application, or enforcement of the rules of this Section the permit holder may:

(1) Request an informal review pursuant to Paragraphs (d) and (e) of this Rule; or

(2) Initiate a contested case in accordance with G.S. 150B.

(b) The permit holder is not required to complete the alternative dispute resolution prior to initiating a contested case in accordance with G.S. 150B.

(c) When a petition for a contested case is filed, the informal review process shall terminate.

(d) If the permit holder requests an informal review, the request shall be in writing and shall be postmarked or hand delivered to the local health department within seven days of notice of the decision giving rise to the review. The request shall state the issues in dispute. If the inspection giving rise to the informal review was conducted by the Environmental Health Supervisor in the county or area where the food establishment is located, or when the county or area has only one registered environmental health specialist assigned to inspect food establishments, the Environmental Health Regional Specialist assigned to that county or area shall conduct the local informal review. As soon as possible, but at least within 30 days of receipt of the request, the person conducting the review shall contact the permit holder, provide that permit holder an opportunity to be heard on the issues in dispute and issue a written decision addressing the issues raised in the appeal. Copies of the decision shall be mailed to the permit holder and to the State Health Director. That decision shall be binding for the purposes of future inspections of the establishment in question unless modified pursuant to Paragraph (e) of this Rule or by the State Health Director.

(e) Following receipt of the written decision of the Environmental Health Supervisor or his or her representative issued pursuant to Paragraph (d) of this Rule, the permit holder who initiated the informal review may appeal the resulting decision to an Informal Review Officer designated by the Department to be responsible for final decisions on appeals from throughout the state. Notice of such appeal shall be in writing, shall include a copy of the Environmental Health Supervisor's or his or her representative's decision, and shall be postmarked or hand-delivered to the local health department and to the Department within seven days of receipt of the written decision issued pursuant to Paragraph (a) of this Rule. Within 35 days of receipt of this appeal, the designated Informal Review Officer shall hold a conference in Wake County. At least 10 days prior to the conference, the Informal Review Officer shall provide notice of the time and place of this conference to the permit holder and the Environmental Health Supervisor for the county or area where the issue arose. Within 10 days following the date of the conference, the Informal Review Officer shall issue a written decision addressing the issues raised in the appeal and that decision shall be binding for purposes of future inspections of the establishment in question unless modified pursuant to Paragraph (g) of this Rule or by the State Health Director.

(f) If the decision on appeal at the local or state level results in a change in the score resulting from an inspection of an establishment, the regulatory authority shall post a new grade card reflecting that new score.

(g) Appeals of the decision of the designated Informal Review Officer shall be in accordance with G.S. 150B.

(h) Nothing in this Rule shall impact the right of a permit holder to a reinspection pursuant to Rule .2661 of this Section.

History Note: Authority G.S. 130A-248; S.L. 2011-394, Section 15(a);

Eff. September 1, 2012.

- d. If the Submitting Party requests Informal Internal review by a PE, the LHD will follow the procedure described below.
- II. Procedure For Developing and Maintaining a List of PEs for Informal Internal Reviews
 - a. Rockingham County Environmental Health Section will look to FPF Branch for list of PE's for informal reviews in accordance with SL 2014-120 Report DHHS DPH EHS Part 2B, III. Procedure for Developing and Maintaining a List of PE's for Informal Internal Reviews.
 - b. Rockingham County Environmental Health Section will use FPF Branch website for this list in accordance with SL 2014-120 Report DHHS DPH EHS Part 2B, IV.

Part 3: Rockingham County Department of Health and Human Services, Division of Public Health, Environmental Health Section Review of Working Job Titles

Reference Session Law 2014-120, Section 29. (h).

- I. Review the Working Job Titles of every employee with job duties that include the review of Regulatory Submittals.
 - a. There are no positions in the EHS with the working job title “Engineer”.
 - b. There are 9 employees that review Regulatory Submittals.
 - c. The position titles are as follows:
 - i. Environmental Health Director
 - ii. Soil Scientist
 - iii. Environmental Health Program Coordinator
 - iv. Environmental Health Specialist