

SL 2014-120 Report Davie County Environmental Health

Part 1A: On-site Water Protection: Standardize Certain Regulatory Review Procedures

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

Background: The On-site Water Protection program receives numerous applications for review. The processes for each type of review are described below.

- I. Systems with design daily flows $\geq 3,000$ total gallons per day [15A NCAC 18A .1938(e)] or for treatment of industrial process wastewater (IPWW) [15A NCAC 18A .1938(f)].
 - A. Receive application
 - B. Ensure that all parts of the application are filled out in its entirety (includes the application, site plan, and any associated fees for the review)
 - C. Notify state regarding need for review and convey materials to the State via regional specialist if needed.
 - D. Assist the State with processes outlined in Part 1A, Section I of the State report
- II. Design plans and specifications pursuant to Rule .1938(f).
 - A. Receive application
 - A. File a Request for Review describing which elements of the Submittal the OSWP should review.
 - B. Convey the Regulatory Submittal and Request to Review to the OSWP.
 - C. Assist the State with processes outlined in Part 1A, Section I.B of the State report
- III. Design plans and specifications pursuant to Rule .1948(d); (Proposals intended to overcome an UNSUITABLE classification)
 - A. Receive application
 - B. File Request for Review for a proposal submitted based on Rule .1948(d) and convey it to the OSWP with the Regulatory Submittal.
 - C. Assist the State with processes outlined in Part 1A, Section I.C of the State report
- IV. Design plans and specifications for flow reduction utilizing low-flow fixtures or low-flow technologies pursuant to Session Law 2013-413 or 2014-120.
 - A. Receive application
 - B. Conduct Review
 - C. Provide a response to the Submitting Party that includes:
 - a. *An approval of the system* engineering plans and specifications, or
 - b. *A request for revisions* that include:
 - (a) A section detailing any required revisions with citation of applicable statute or rule(s);
 - (b) A section detailing any suggested or recommended revisions based upon current knowledge base (guidance, manuals or standards of practice).
 - c. *A request for additional information* that includes:

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- (a) A section detailing any required additional information with citations of applicable statute or rule(s) and;
- (b) A section detailing any suggested additional information based upon current knowledge base (guidance, manuals, or standards of practice).

V. Any other Regulatory Submittal for onsite wastewater system permitting

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Part 1B: Food Lodging and Institutions Program: Standardize Certain Regulatory Review Procedures

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

- I. Background: The state authorized Environmental Health Specialist (EHS) reviews plan submittals for all food establishments that will be selling food in the county.
- II. Plans for construction of public swimming pools are also reviewed by local health department staff acting as agents of the Department with technical assistance from the FPF Regional Specialist. Plan review checklists are used to assure uniform review for compliance with the rules.
 - A. A Food Service Plan Review Application form and guidance are provided to assure all needed information is in order for approval.
 - B. A public Swimming Pool Plan Review Checklist is used to check pool plans to assure all safety requirements and circulation system components are able to meet the water quality requirements.

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Part 2A: On-site Water Protection Branch Informal Internal Review Processes and Procedures to Develop and Maintain a List of Review Engineers

I. Definitions: The following definitions apply throughout this document:

- A. Practice of Engineering. – As defined in G.S. 89C-3.
- B. Professional Engineer (PE). – As defined in G.S. 89C-3.
- C. Regulatory Authority. – The Department of Environment and Natural Resources, the Department of Health and Human Services, and any unit of local government operating a program (i) that grants permits, licenses, or approvals to the public and (ii) that is either approved by or delegated authority from the Department of Environment and Natural Resources or the Department of Health and Human Services
- A. Regulatory Submittal. – An application or other submittal to a Regulatory Authority for a permit, license, or approval. In the case of a unit of local government, Regulatory Submittal shall mean an application or submittal submitted to a program approved by or delegated Authority from the Department of Environment and Natural Resources or the Department of Health and Human Services.
- B. Submitting Party. – The person submitting the Regulatory Submittal to the Regulatory Authority.

II. Scope:

- A. Davie County Environmental Health does not employ an engineer
- B. If a Submitting Party requests an Informal Internal Review of an engineered design, the request will be forwarded to the State in accordance with Part 2A Section III of the State report.
- C. A list of PEs available for Informal Internal Reviews will be developed in accordance with Part 2A Section IV of the State report.

III. Frequency

- A. This process has been used twice in Davie County in 2015. Once for failure analysis and once for a complaint investigation.

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Part 2B: Food, Lodging, and Institution Program Informal Internal Review Processes And Procedures to Develop and Maintain a List of Review Engineers

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

I. Definitions: The following definitions apply throughout this document:

- A. Practice of Engineering. – As defined in G.S. 89C-3.
- B. Professional Engineer (PE). – As defined in G.S. 89C-3.
- C. Regulatory Authority. – The Department of Environment and Natural Resources, the Department of Health and Human Services, and any unit of local government operating a program
 - (i) that grants permits, licenses, or approvals to the public and
 - (ii) that is either approved by or delegated authority from the Department of Environment and Natural Resources or the Department of Health and Human Services.
- D. Regulatory Submittal. – An application or other submittal to a Regulatory Authority for a permit, license, or approval. In the case of a unit of local government, Regulatory Submittal shall mean an application or submittal submitted to a program approved by or delegated authority from the Department of Environment and Natural Resources or the Department of Health and Human Services.
- E. Submitting Party. – The person submitting the Regulatory Submittal to the Regulatory Authority.

II. Scope:

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. Davie County Environmental Health does not employ an engineer
- B. If a Submitting Party requests an Informal Internal Review of an engineered design, the request will be forwarded to the State in accordance with Part 2B Section II of the State report.
- C. A list of PEs available for Informal Internal Reviews will be developed in accordance with Part 2B Section III of the State report.

III. Frequency

- A. The Informal Internal review process has not been utilized in 2015.

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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.

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Part 3A: Onsite Water Protection Branch Review of Working Job Titles

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

- I. The working job titles of every employee with job duties that include the review of Regulatory Submittals are Environmental Health Specialist. This information is provided by Davie County Human resources
- A. Three positions at Davie County Environmental health conduct reviews of plans. None of those position descriptions require that employees be a licensed PEs; however, all positions require that the individual be delegated authority from the state for the specific area of plans reviewed. All positions require a bachelor degree.

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Part 3B: Food Protection and Facilities Branch Review of Working Job Titles

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

- I. I. The working job titles of every employee with job duties that include the review of Regulatory Submittals are Environmental Health Specialist. This information is provided by Davie County Human resources
 - A. Three positions at Davie County Environmental health conduct reviews of plans. None of those position descriptions require that employees be licensed PEs; however, all positions require that the individual by delegated authority from the state for the specific area of plans reviewed. All positions require a bachelor degree.