

## **JOHNSTON COUNTY COMPLIANCE REPORT FOR SL 2014-120, SECT 29. (b)**

### **Part 1A: On-site Water Protection: Standardize Certain Regulatory Review Procedures Reference Session Law 2014-120, Section 29.(b)**

Background: Johnston County Environmental Health receives Regulatory Submittals for review under multiple scenarios as provided for in statute and rule. The following is a description of how each of these reviews are performed:

- I. Systems with design daily flows > 3,000 total gallons per day [15A NCAC 18A .1938(e)] or for treatment of industrial process wastewater (IPWW) [15A NCAC 18A .1938(f)]. (These systems require State review and approval.)
  - A. Receive application
  - B. Assign staff
  - C. Notify state regarding need for review and convey materials to the State
  - 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). (This is typically an engineered design that does not specifically require State review but the local department requests State assistance regarding one or more aspects of the design.)
  - A. Receive application
  - B. File a Request for Review describing which elements of the Submittal the OSWP should review
  - C. Convey the Regulatory Submittal and Request for Review to the OSWP
  - D. Assist the State with processes outlined in Part 1A, Section II.B of the State report
  
- III. Design daily flow review pursuant to Rule .1949; (The local health department is only requesting assistance with determination of the proposed flow for a facility.)
  - A. Receive application
  - B. File Request for Review for a proposal submitted based on Rule .1949 and convey it to the OSWP with the Regulatory Submittal
  - C. Assist the State with processes outlined in Part 1A, Section II.A of the State report
  
- IV. 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 II.C of the State report
- V. Design plans and specifications for flow reduction utilizing low-flow fixtures or low-flow technologies pursuant to Session Law 2013-413 or 2014-120. (These submittals may be submitted to the State on a case-by-case basis. In those cases, procedures outlined in Section II above apply.) The procedure below is for reviews conducted on the local level only.
- A. Receive application
  - B. Conduct Review
  - C. Provide a response to the Submitting Party that includes:
    - 1. An approval of the system engineering plans and specifications, or
    - 2. 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)
    - 3. A request for additional information that includes:
      - (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)
- VI. Design plans, specifications, and hydrostatic testing for Alternative Pipe Materials used in force mains between the outside of the pump tank and the drainfield. (These submittals occur when a pipe type other than the industry standard Schedule 40 pressure rated PVC is used. These submittals may be submitted to the State on a case-by-case basis. In those cases, procedures outlined in Section II above apply.) The procedure below is for reviews conducted on the local level only.
- A. Receive request for use of alternative pipe
  - B. Conduct review of request using Section 3 of the State guidance document titled “Alternative Pipe Materials for use in Septic Systems” dated October 18, 2005
  - C. Provide a response to the Submitting Party that includes:
    - 1. An approval of the use of the alternative pipe
    - 2. 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)
- 3. A request for additional information that includes:
  - (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)
- D. After installation, conduct a review of the required hydrostatic testing to ensure that it complies with Rule .1955(o)(4)
  - 1. Provide a response to the Submitting Party that includes:
    - (a) An approval of the alternative pipe installation
    - (b) Denial of the alternative pipe installation (An approval can be issued after leaks are repaired to ensure compliance with Rule .1955 (o) (4))

**Part 1B: Food Protection and Facilities: Standardize Certain Regulatory Review Procedures for Permitting Establishments Serving Food**  
**Reference Session Law 2014-120, Section 29. (b)**

VII. Background: Johnston County Environmental Health conducts plan reviews for permitting regulated establishments such as: Restaurants, Food Stands, Meat Markets, School Cafeterias, Nursing or Assisted Care Facility Cafeterias, Hospital Cafeterias, College Cafeterias, Limited Food Establishments, Catering Facilities, Mobile Food Units, Push Carts, Lodging Full Service Restaurants, Commissaries, Elderly Nutrition Sites conducting food preparation, Culinary Restaurants in High Schools, Middle Schools, Private Schools, and Temporary Food Establishments associated with festivals. 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 state's NCDHHS-DEH Food Protection and Facilities Branch staff.

**Food Protection & Facilities Process:**

No permit to operate shall be issued to a person or entity until an evaluation by Johnston County Environmental Health Food and Lodging has determined the facility or entity complies with all rules as defined in 15A NCAC 18A .2602.

- 1. Permits are required for new establishments, existing establishments changing ownership as per 15A NCAC 18A .2602.

2. Applications for permits are submitted to the Johnston County Environmental Health at 309 E. Market Street, Smithfield, NC 27577. Prototype or Franchised Facilities plans and applications are to be submitted to: North Carolina Department of Health Human Services Division of Public Health 1632 Mail Service Center Raleigh, NC 27699-1632.
3. An application using either NC Department of Health & Human Services Division of Public Health Environmental Health Section Food Establishment Plan Review Application or Johnston County Environmental Health Plan Review Application must be submitted 30 days in advance of opening of the facility or change of ownership.
4. Applications for permits and plan review submitted are to include completed application, scale drawing or professional drawings with equipment list, specifications, menu, procedures and lighting, plumbing and electrical information.
5. Plan review fees for new facilities or change of use will be assessed on a sliding fee scale of \$50 - \$200 depending on the size of the facility.
6. A review of the application/plans will be conducted by the Environmental Health Supervisor or other staff member assigned within 2 weeks of receipt of application.
7. Accepted applications are logged into department's Plan Review Log.
8. A plan review letter is sent to the applicant with approval of the application or next steps needed to approve the application. A copy of the approval letter is forwarded to the appropriate building inspection office.
9. Upon approval of the application a pre-opening construction visit is conducted with any noncompliant issues addressed in writing necessary to obtain a permit.
10. A final construction visit is conducted upon determination of compliance of the facility and all other approvals completed such as building inspections, fire inspections and utility inspections.
11. Permits are written upon acceptance or in cases of changes of ownership to existing facilities a transitional permit may be written as per 15A NCAC 18. 2602.
12. Throughout the process the applicant can request meetings to review the process, next steps or if denied can request both an informal or formal review.

#### Public Swimming Pools Process:

No permit to operate shall be issued to a person or entity until an evaluation by Johnston County Environmental Health has determined the facility or entity complies with all rules as defined in 15A NCAC 18A .2500.

1. Public swimming pool plans and specifications must be prepared by a registered design professional if required by G.S. 89C Engineering or G.S. 83A Architecture, as specified in 15A NCAC 18A .2509.
2. A public swimming pool plan review checklist provided by the state is used to check pool plans to assure all safety requirements and circulation system components are able to meet the water quality requirements.
3. The Department shall approve, disapprove, or provide written comments on plans and specifications within 30 days of their receipt. If such action is not taken within 30 days, the plans and specifications shall be deemed approved.

4. The swimming pool contractor must contact the environmental health office when pool pipes are in place and visible so that the environmental health specialist may conduct an open-pipe inspection of the pool piping.
5. Additional construction visits are made as warranted throughout the construction process to help assure compliance with the submitted plans
6. Prior to issuance of the operation permit, the owner shall submit to the environmental health office a statement signed by the registered design professional stating that construction is complete and in accordance with approved plans and specifications and approved modifications. Observation and construction and a final inspection for design compliance by the certifying registered design professional or his representative are required for this statement
7. Throughout the process the applicant can request meetings to review the process, next steps or if denied can request both an informal or formal review.

**Part 2A: On-site Water Protection Informal Internal Review Processes and Procedures to Develop and Maintain a List of Review Engineers**  
**Reference Session Law 2014-120, Section 29.(c)**

Johnston County Environmental Health will refer to the State mechanism for handling both informal internal reviews and developing and maintaining a list of Review Engineers. This will be accomplished through the following steps:

- I. 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.
- II. A list of PEs available for Informal Internal Reviews will be developed in accordance with Part 2A Section IV of the State report.

**Part 2B: Food Protection and Facilities Informal Review Process:**  
**Reference Session Law 2014-120, Section 29 (c)**

Request for Informal Review of Process: An informal review requested by the applicant must be in writing including the reason of the request to Johnston County Environmental Health Director. This request will need to be made within 30 days of the submission of the application or denial which ever applies. The informal review will include the applicant or their representative, Environmental Health Director or designee such as Environmental Health Supervisor, Environmental Health Program Specialist or State Regional Environmental Health Specialist.

1. A review of request will be made either in person with applicant or via review of application and documents with a decision made to next steps.

2. Where the informal review cannot resolve the matter the applicant can request a further review as per 15A NCAC 18A .2676 Informal Review Process and Appeals Procedure.

Request for State Informal Review of Process:

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. 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.

Procedures for Maintaining a List of Review Engineers:

Description of Process: Johnston County Environmental Health has established a list for Onsite and Wastewater Soil Scientist and other Physical Engineers. As Engineers are identified for Food Establishment Permitting they will be added to the list under Food Establishment Permitting Engineer List.

**Part 3A: Onsite Water Protection Review of Working Job Titles**  
**Reference Session Law 2014-120, Section 29.(h)**

Johnston County Environmental Health does not have any employees with a working job title that includes the term “engineer”.

**Part 3B: Food Protection and Facilities Review of Working Job Titles**  
**Reference Session Law 2014-120, Section 29.(h)**

Johnston County Environmental Health does not have any employees with a working job title that includes the term “engineer”.