

Informal Review Process Report For 2016

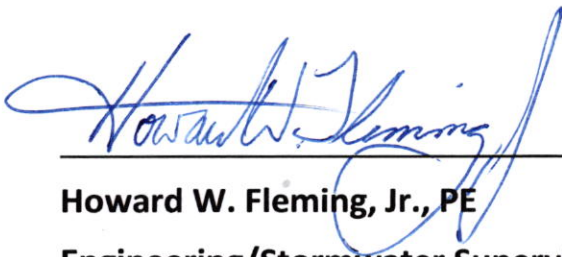
**To the Environmental Review Commission
Pursuant to S.L. 2014-120, Sec. 29 REFORM
AGENCY REVIEW OF ENGINEERING WORK**

January 09, 2017

**Orange County, North Carolina, Planning & Inspections
Department, Engineering/Stormwater Division**

Approved/delegated program subject to reporting requirements:

- ☒ Sedimentation/erosion control
- ☒ Stormwater
- ☐ Water/sewer
- ☐ Cross-connection
- ☐ 401 certifications
- ☒ Other NCGS § 143-214.24. Riparian Buffer Protection Program



Howard W. Fleming, Jr., PE
Engineering/Stormwater Supervisor

01/09/17

Sig. Date

AFFECTED PROGRAMS

To know if the requirements apply to a specific development plan review process, you must answer YES to BOTH of these questions:

1. Is the review being conducted pursuant to a program *approved by* or *delegated by* the N.C. Department of Environment and Natural Resources or the N.C. Department of Health and Human Services?
2. As a result of the review, will the local government grant a permit, license, or approval to a member of the public?

Examples of program areas that must follow the new requirements (detailed below) include **those that review sedimentation/erosion control, stormwater, and water/sewer designs**, as well as cross-connection plans and 401 certifications. Other programs may also be subject to the requirements of this law. Notably, review of transportation designs is NOT subject to these new requirements.

EXCERPT FROM S.L. 2014-120, Sec. 29 REFORM AGENCY REVIEW OF ENGINEERING WORK:

SECTION 29.(j) Annual Report. – Beginning in 2016, each Regulatory Authority shall annually report to the Environmental Review Commission no later than January 15 on **the informal review process required by Section 29(c) of this act. The report shall include the number of times the informal review process was utilized and the outcome of the review.**

SECTION 29.(k) Annual Reporting Sunset. – Section 29(j) of this act expires on January 1, 2019.

SECTION 29.(c) Informal Review. – No later than December 1, 2014, each Regulatory Authority shall create a process for each regulatory program administered by the Regulatory Authority for an informal internal review at the request of the Submitting Party in each of the following circumstances:

- (1) *The inclusion in a Regulatory Submittal of a design or practice sealed by a Professional Engineer but not included in the Regulatory Authority's existing guidance, manuals, or standard operating procedures. This review should first be conducted by the reviewing employee's supervisor or, in the case of a Regulatory Authority that is a unit of local government, either the reviewing employee's supervisor or the delegating or approving State agency. If this initial review was not conducted by a Professional Engineer, then the Submitting Party may request review by (i) a Professional Engineer on the staff of the Regulatory Authority or (ii) the delegating or approving State agency in the case of a Regulatory Authority that is a unit of local government. If the Regulatory Authority or delegating or approving State agency does not employ a Professional Engineer qualified and competent to perform the review, it may provide for review by a consulting Professional Engineer selected from a list developed and maintained by the Regulatory Authority. The Regulatory Authority may charge the Submitting Party for the costs of the review by the consulting Professional Engineer. Nothing in this subdivision is intended to limit the authority of the Regulatory Authority to make a final decision with regard to a Regulatory Submittal following the reviews described in this subdivision.*
- (2) *A disagreement between the reviewer of the Regulatory Submittal and the Submitting Party regarding whether the statutory or regulatory authority identified by the Regulatory Authority for revisions or requests for additional information designated as "required" under the procedures set forth in Section 29(b) of this act justifies a required change.*

*Submit this report electronically to Mariah Matheson, Commission Assistant,
Environmental Review Commission, at Mariah.Matheson@ncleg.net.*

Name of local government unit: Orange County, NC

On December 1, 2014, Orange County Engineering/Stormwater Division established an informal internal review at the request of the Submitting Party, as required by S.L. 2014-120, SECTION 29.(c). A copy of Orange County's procedures is attached to this report.

Number of times the informal review process was utilized in 2016:

- A. Innovative Design:** 0
- B. Challenge "required" nature of plan review comment:** 1

Outcome of each review:

1. **August 1, 2016, Carolina Friends School, Performing Arts Center** - Additional project phase was permitted with conditions, following appeal, by Craig Benedict, Director of Planning & Inspections Department, to the satisfaction of the applicant. This appeal followed the appeal process outlined in Orange County's Unified Development Ordinance (UDO). Escalation to delegating authority was not required.

Additional information:

ATTACHMENTS

- A. Procedure policy (attached) posted to Orange County, NC, Planning & Inspections Department, Engineering/Stormwater Division web page 12/01/2014
(http://www.orangecountync.gov/departments/planning_and_inspections/erosion_control.php)
 - PERMITTEES: Persons Submitting a Regulatory Submittal to Orange County (Regulatory Authority)
 - REGULATION: Reform Agency Review Of Engineering Work
 - CITATION: Session Law 2014-120, Senate Bill 734
 - SUBJECT:
 - 1) Informal Internal Review, upon request of Submitting Party
 - 2) Remedy Procedure for Disagreement between Orange County Reviewer and the Submitting Party
- B. Orange County Legal Plan Review Comments Preamble, pursuant to SL 2014-120

PLANNING & INSPECTIONS DEPARTMENT

Craig N. Benedict, AICP, Director

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December 1, 2014

PERMITTEES: Persons Submitting a Regulatory Submittal to Orange County (Regulatory Authority)

REGULATION: REFORM AGENCY REVIEW OF ENGINEERING WORK

CITATION: SESSION LAW 2014-120, SENATE BILL 734

SUBJECT: 1) **Informal Internal Review**, upon request of Submitting Party
2) **Remedy Procedure for Disagreement** between Orange County Reviewer and the Submitting Party

To Whom It May Concern:

In accordance with Session Law 2014-120, Orange County is establishing the following:

Novel Design Review

Should a Regulatory Submittal include a design or practice sealed by a Professional Engineer but not included in the Orange County's existing guidance, manuals, or standard operating procedures, this review will first be conducted by the reviewing employee's supervisor. In the case of Orange County, being a delegated unit of local government, this review may be reviewed by the delegating or approving State agency.

If this initial review was not conducted by a Professional Engineer, then the Submitting Party may request review by (i) a Professional Engineer on the staff of the Orange County or (ii) the delegating or approving State agency. If the Orange County or delegating or approving State agency does not employ a Professional Engineer qualified and competent to perform the review, it may provide for review by a consulting Professional Engineer selected from a list developed and maintained by Orange County. Orange County may charge the Submitting Party for the costs of the review by the consulting Professional Engineer.

Nothing in S.L. 2014-120 is intended to limit the authority of the Orange County to make a final decision with regard to a Regulatory Submittal following the reviews described in therein.

Disagreement Resolution

The following outlines procedures for resolution of disagreement between the reviewer of the Regulatory Submittal and the Submitting Party regarding whether the statutory or regulatory authority identified by Orange County for revisions or requests for additional information designated as "required" under the procedures set forth in accordance with Section 29(b) of Session Law 2014-120 justifies a required change.

1. Submitting Party must address specifics of disagreement in writing. This letter should be addressed to the Division Supervisor.
2. The Division Supervisor will review the complaint and respond in writing within five (5) working days with a response of either (i) supporting objection(s) or (ii) supporting Reviewer's requests for revisions or additional information. This response, if negative, shall contain the specifics as to appeal.
3. Should the Submitting Party disagree with the Division Supervisor's decision, an appeal may be submitted to Orange County's delegating or approving State agency.

Nothing in Section 29(c) of this S.L. 2014-120 shall limit or abrogate any rights available under Chapter 150B of the General Statutes to any Submitting Party.

Sincerely,
Howard W. Fleming, Jr., PE
Engineering/Stormwater (Division) Supervisor
Orange County Planning and Inspections Department
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Erosion Control / Stormwater Management

Plan Review Comment Language

In accordance with requirements set forth in the Sedimentation Pollution Control Act of 1973, North Carolina General Statute Chapter 113A Article 4, Orange County operates as a locally delegated program as outlined in the Memorandum of Agreement between the North Carolina Sedimentation Control Commission and Orange County, North Carolina. According to basic control objectives of 15A NCAC 04B .0106 and Sections 6.14 (Stormwater Management) and 6.15 (Soil Erosion and Sedimentation Control) of the Orange County Unified Development Ordinance, County staff offers the following comments with regards to your submitted plans. The corrections noted are required; if suggestions, they will be so noted.