STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER
GOVERNOR

MANDY COHEN, MD, MPH
SECRETARY

July 1, 2017

SENT VIA ELECTRONIC MAIL

The Honorable Louis Pate, Co-Chair
Joint Legislative Oversight Committee on
Health and Human Services
North Carolina General Assembly
Room 311, Legislative Office Building
Raleigh, NC 27603-5925

The Honorable Josh Dobson, Co-Chair
Joint Legislative Oversight Committee on
Health and Human Services
North Carolina General Assembly
Room 301N, Legislative Office Building
Raleigh, NC 27603-5925

Dear Chairmen:

Session Law 2015-286, Section 4.15.(c) requires the Commission for Public Health to report to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on its progress on adopting or amending rules for approvals of on-site wastewater systems.

Pursuant to this requirement, the Department of Health and Human Services' Division of Public Health provides the attached report on behalf of the Commission for Public Health. If you have questions about the content of this report, please contact Nancy Deal at 919-707-5874, or at nancy.deal@dhhs.nc.gov.

Sincerely,

for MLC

Mandy Cohen, MD, MPH
Secretary

cc: Mark Benton, Theresa Matula, Susan Jacobs, LT McCrimmon, Denise Thomas, Rod Davis, Ben Popkin, reports@ncleg.net, Marjorie Donaldson, Joyce Jones, Lindsey Dowling, Susan Perry-Manning, Kolt Ulm, Pam Kilpatrick, Danny Staley

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SECRETARY

July 1, 2017

SENT VIA ELECTRONIC MAIL

The Honorable Jimmy Dixon, Co-Chair
Environmental Review Commission
North Carolina General Assembly
Room 2226, Legislative Building
Raleigh, NC 27601-1096

The Honorable Chuck McGrady, Co-Chair
Environmental Review Commission
North Carolina General Assembly
Room 304, Legislative Office Building
Raleigh, NC 27603-5956

The Honorable Trudy Wade, Co-Chair
Environmental Review Commission
North Carolina General Assembly
Room 525, Legislative Office Building
Raleigh, NC 27603-5956

Dear Chairmen:

Session Law 2015-286, Section 4.15.(c) requires the Commission for Public Health to report to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services on its progress on adopting or amending rules for approvals of on-site wastewater systems.

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Progress Report of Adoption or Amendment of On-Site Wastewater Rules

Session Law 2015-286

Report to

The Environmental Review Commission

and

The Joint Legislative Oversight Committee on Health and Human Services

by

North Carolina Department of Health and **Human Services**

On Behalf of the Commission for Public Health

July 1, 2017

BACKGROUND

Session Law (S.L.) 2015-286, Section 4.15. (c) requires reporting of progress by the Commission for Public Health to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services beginning January 1, 2016, and every quarter thereafter, until all rules required pursuant to S.L. 2015-286, Sections 4.14 and 4.15 are adopted or amended.

This report is submitted by the Department of Health and Human Services (DHHS) Division of Public Health (DPH) on behalf of the Commission for Public Health. This report reflects the progress on adoption or amendment of the rules referenced in the legislation's Section 4.14 **(Part 1 of the report)** and the rulemaking specifications described in Section 4.15 **(Part 2 of the report).** The legislation addresses rules governing on-site wastewater systems, including a new "engineered option permit" (EOP) for on-site wastewater systems. General details of the relevant sections and sub-sections are provided below followed by a description of the collective status of related rulemaking efforts and projected next steps.

PART 1: SESSION LAW 2015-286, SECTION 4.14

Session Law 2015-286, Section 4.14 addresses the EOP. Section 4.14. (k) requires the Commission for Public Health to adopt temporary rules pursuant to Sections 4.14. (a) through 4.14. (e), Section 4.14. (g), and Section 4.14. (j) no later than June 1, 2016. The legislation also requires the adoption of permanent rules no later than January 1, 2017. The permanent EOP rule became effective April 1, 2017. The requirements of this section of S.L. 2015-286 have therefore been met.

PART 2: SESSION LAW 2015-286, SECTION 4.15

Sections slated for Permanent Rules only (due January 1, 2017) are:

- **Section 4.15. (a)** – Amendments to G.S.130A-343 regarding approval of on-site wastewater systems.

- **Section 4.15. (b)** – Implementation of Section 4.15. (a).

<u>Current Status of Activities around Section 4.15</u>

OSWP staff are continuing to work on the complete revision of 15A North Carolina Administrative Code (NCAC) 18A .1900 rules and the fiscal note for the permanent rule revision. OSWP staff are finalizing the draft .1900 rules and fiscal note. The .1900 rules will be replaced with 15A NCAC 18E rules. The .1900 rules will be repealed concurrently with the adoption of 15A NCAC 18E rules. The tentative schedule for the 18E rules has been revised as follows to accommodate the Commission for Public Health quarterly meeting schedule and follow the Administrative Procedures Act:

- August 9, 2017 — Approval of fiscal note by Commission for Public Health
- August 11, 2017 — Fiscal note and text to NC Register
- September 1, 2017 — Published in NC Register
- September 16, 2017 — Earliest date for a public hearing
- October 31, 2017 — End of public comment period
- November 8, 2017 — Commission for Public Health meeting for adoption
- November 20, 2017 — Rules submitted to Rules Review Commission for review
- December 21, 2017 — Rules Review Commission meeting and approval
- January 1, 2018 — Effective date

Next Steps for Implementation of Section 4.15

- OSWP staff will continue to receive comments from stakeholders and will document a response to each comment.
- OSWP staff will proceed with the complete 15A NCAC 18A .1900 rule revision process in conjunction with DHHS Division of Public Health staff.
- OSWP staff will have the draft rule text and fiscal note ready for submission to the Commission for Public Health at the August 2017 meeting for approval prior to being posted in the NC Register.
- OSWP staff will follow the timeline above to complete the formal rule making process as expeditiously as allowed under the Administrative Procedures Act.