



STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER
GOVERNOR

KODY H. KINSLEY
SECRETARY

February 8, 2023

SENT VIA ELECTRONIC MAIL

The Honorable Donny Lambeth, Chair
Joint Legislative Oversight Committee on
Health and Human Services
North Carolina General Assembly
Room 620, Legislative Office Building
Raleigh, NC 27603

The Honorable Jim Burgin, Chair
Joint Legislative Oversight Committee on
Health and Human Services
North Carolina General Assembly
Room 308, Legislative Office Building
Raleigh, NC 27603

The Honorable Larry Potts, Chair
Joint Legislative Oversight Committee on
Health and Human Services
North Carolina General Assembly
Room 307B1, Legislative Office Building
Raleigh, NC 27603

Dear Chairmen:

Session Law 2015-286, Section 4.14.(c) requires the Department of Health and Human Services to report annually to the Joint Legislative Oversight Committee on Health and Human Services and the Environmental Review Commission on the implementation and effectiveness of Engineer Option Permit (EOP). Pursuant to the provisions of law, the Department is pleased to submit the attached report.

Should you have any questions regarding this report, please contact John Furnari, Program/Policy Analyst, at John.Furnari@dhhs.nc.gov.

Sincerely,

DocuSigned by:

A handwritten signature in black ink, appearing to read "Kody H. Kinsley".

D7816E4CBA6F4A8...

Kody H. Kinsley
Secretary

cc:	Mark Collins	Joyce Jones	Katherine Restrepo	Luke MacDonald
	Lisa Wilks	Amy Jo Johnson	Francisco Celis Villagrana	Theresa Matula
	Jessica Meed	Nathan Babcock	Fred Aikens	Todd Barlow

WWW.NCDHHS.GOV

TEL 919-855-4800 • FAX 919-715-4645

LOCATION: 101 BLAIR DRIVE • ADAMS BUILDING • RALEIGH, NC 27603

MAILING ADDRESS: 2001 MAIL SERVICE CENTER • RALEIGH, NC 27699-2000

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER



STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER
GOVERNOR

KODY H. KINSLEY
SECRETARY

February 8, 2023

SENT VIA ELECTRONIC MAIL

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

The Honorable Norman Sanderson, Chair
Environmental Review Commission
North Carolina General Assembly
Room 309, Legislative Office Building
Raleigh, NC 27603

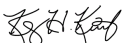
The Honorable Edward Goodwin, Chair
Environmental Review Commission
North Carolina General Assembly
Room 2217, Legislative Building
Raleigh, NC 27601

Dear Chairmen:

Session Law 2015-286, Section 4.14.(c) requires the Department of Health and Human Services to report annually to the Joint Legislative Oversight Committee on Health and Human Services and the Environmental Review Commission on the implementation and effectiveness of Engineer Option Permit (EOP). Pursuant to the provisions of law, the Department is pleased to submit the attached report.

Should you have any questions regarding this report, please contact John Furnari, Program/Policy Analyst, at John.Furnari@dhhs.nc.gov.

Sincerely,

DocuSigned by:

D7816E4CBA6F4A8...
Kody H. Kinsley
Secretary

cc:	Mark Collins	Joyce Jones	Katherine Restrepo	Luke MacDonald
	Lisa Wilks	Amy Jo Johnson	Francisco Celis Villagrana	Theresa Matula
	Jessica Meed	Nathan Babcock	Fred Aikens	Todd Barlow

WWW.NCDHHS.GOV

TEL 919-855-4800 • FAX 919-715-4645

LOCATION: 101 BLAIR DRIVE • ADAMS BUILDING • RALEIGH, NC 27603

MAILING ADDRESS: 2001 MAIL SERVICE CENTER • RALEIGH, NC 27699-2000

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

Annual Progress Report on Engineer Option Permit

Session Law 2015-286, Section 4.14. (c)



Report to

The Environmental Review Commission

and

**The Joint Legislative Oversight Committee
on Health and Human Services**

by

NC Department of Health and Human Services

February 8, 2023

REPORTING REQUIREMENTS

Session Law 2015-286, Section 4.14. (c) requires reporting by the Department of Health and Human Services (DHHS) to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services beginning January 1, 2017, and every year thereafter, on the implementation and effectiveness of the Engineer Option Permit (EOP).

The legislation directs DHHS to report upon five items regarding the EOP and its implementation and effectiveness. The five items are as follows:

- (i) Whether the EOP resulted in a reduction in the length of time improvement permits or authorizations to construct are pending;
- (ii) Whether the EOP resulted in increased system failures or other adverse impacts;
- (iii) If the EOP resulted in new or increased environmental or public health impacts;
- (iv) An amount of errors and omissions insurance or other liability sufficient for covering professional engineers, licensed soil scientists, licensed geologists, and contractors who employ the EOP; and
- (v) The fees charged by the local health departments to administer the EOP pursuant to subsection (n) of G.S. 130A-336.1.

BACKGROUND

The EOP provides homeowners with an alternative process which can help expedite the permitting process when Local Health Departments (LHDs) have permitting backlogs. The EOP process contains two steps, a Notice of Intent to Construct (NOI) and an Authorization to Operate (ATO). The NOI is similar to the improvement permit issued by the LHD and contains the results of the soil and site evaluation for the site which indicate that an on-site wastewater treatment and disposal system can be sited, sized, and installed on the property in accordance with Article 11 of Chapter 130A and 15A NCAC 18A .1900. The ATO is similar to the operation permit issued by the LHD and includes the on-site wastewater system design and the results of the final inspection. A building permit can be issued after the NOI has been determined to be complete and a certificate of occupancy can be issued after an ATO has been determined to be complete.

DATA COLLECTION AND FINDINGS

The On-Site Water Protection Branch (OSWPB) of the Division of Public Health, Department of Health and Human Services, require that all LHDs send a copy of the final NOI and written confirmation of the ATO to the Department.

(i) Has the EOP resulted in a reduction in the length of time improvement permits or authorizations to construct are pending?

- EOPs have aided in a reduction in the length of time to receive a permit for those that choose this permitting pathway. North Carolina has seen a significant increase in

applications for permits over the past two years, and EOPs have helped LHDs by offering another option to public. In return, this has helped reduce the wait time for a permit from the LHD.

(ii) Has the EOP resulted in increased system failures or other adverse impacts?

- The Department is aware of wastewater systems permitted under the EOP process that have failed, with repair NOIs submitted by a Professional Engineer to the LHD. Without additional information about the system failures, such as the reason for failure, it is difficult to determine if the EOP has resulted in increased system failures or other adverse impacts.
- The LHDs and Department are aware of NOIs being submitted that do not meet the laws and rules for on-site wastewater treatment systems. These systems could contribute to an increased number of EOP failures in the future.

(iii) Has the EOP resulted in new or increased environmental or public health impacts?

- The Department is unable to reliably determine whether the EOP has resulted in new or increased environmental or public health impacts. The Department has no data to determine these impacts because there is no required auditing for EOPs and any malfunctions of EOP wastewater systems are not assessed by LHDs.

(iv) Are the amount of errors and omissions insurance or other liability sufficient for covering professional engineers, licensed soil scientists, licensed geologists, and contractors who employ the EOP?

- This information is not available to the Department. The role of the Department as it relates to EOPs is to guide the LHDs in receiving NOIs and archiving EOP information as mandated. Assessing insurance coverage is outside the scope of our jurisdiction.

(v) What are the fees charged by the local health departments to administer the EOP pursuant to subsection (n) of G.S. 130A-336.1?

- Of the LHDs which do charge fees, the Department has documented a range in fees from \$75 to \$345.
- In accordance with Session Law 2015-286, the LHDs can charge up to 30% of the cumulative total of the fees that the LHD has established to obtain a permit under normal procedures. The range in fees for an EOP reflect the range in fees charged by LHDs to obtain a permit.

RECOMMENDATIONS

1. The Department recommends auditing of EOPs to generate the data necessary to evaluate whether the EOP has resulted in new or increased environment or public health impacts. This data would help the Department protect the public. Unlike EOPs, LHD's must go through a Department program review every four years. This program review helps to ensure that the public is receiving a good product that promotes public health and protects the environment. With notifications coming from LHDs that some EOPs do not meet the laws and rules for on-site wastewater treatment systems, quality

assurance/auditing would help to better protect the public and aligns with what LHDs have been doing for years. This auditing would enable the Department to provide better information to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services in response to Session Law 2015-286, Section 4.14. (c) direction to report on if “the EOP resulted in new or increased environmental or public health impacts.” If this authority were granted, additional staff and appropriation may be needed for these audits.

2. The Department recommends that the required fee for issuance of the ATO be paid as part of the NOI submittal. Although the law states the fee shall be paid prior to issuance of the ATO, some LHDs report they are not receiving the required fee for issuance of the ATO. Requiring the fee to be paid with the NOI submittal would help to avoid this problem.