



Onsite Wastewater Legislative Update

NC Association of Local Health
Directors Annual Conference

January 21, 2016

On-site Wastewater Legislative Changes

- SB 7 S.L. 2015-104
- HB 705 S.L. 2015-147
- HB 765 S.L. 2015-286

SB 7 S.L. 2015-104

- **Existing** Food stands may add up to 8 seats without any further evaluation of system (provided no documented problems)
- Subsequent quarterly Food Service inspections will continue to include visual system assessment of wastewater system
- Building code will likely require food stand with seats to provide public-access bathrooms.
- New food stands with seats are still considered to be restaurants and its wastewater system should be sized according to 15A NCAC 18A .1900.

H 705 S.L. 2015-147

Amendments to .1945(b)

- Expands the number of pretreatment and dispersal options available for replacement system within designated repair area.
- Rule .1945 previously referenced only those “*as specified in Rule .1955, .1956, or .1957*”.
- Now specifically lists .1969 systems
- For the record, our guidance has consistently been that .1969 systems could be designated as repair.

H 705 S.L. 2015-147

Amendments to .1956(7)(d)

- Removes the requirement for a Public Management Entity (PME) in addition to a Certified Operator/Operator in Responsible Charge (ORC) for sand-lined trench systems with a groundwater lowering drainage system.
- The requirement for an Operator remains in effect

H 705 S.L. 2015-147

Repeals .1956(6)(c)

- Removes 1,000 gpd cap on Design Daily Flow for systems installed in saprolite
- Requires CPH to repeal 1956(6)(c) on or before Dec.1, 2015
 - In reality, we must *amend*, not *repeal*
 - Time frame for this was impossible to meet due to the rulemaking process.
- However, provision is effective immediately
- Existing permits and conditions still stand.



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Regulatory Reform Act 2015

H765- S.L. 2015-286

Major Statutory
Changes

Section 4.14(b) EOP provisions

- LSS & LG may evaluate sites for a wastewater systems
- Must only perform work in keeping with their license
- **Their evaluations may stand alone only within the EOP option. All other proposals must be field reviewed and accepted or denied by the LHD as described in Section 4.14.(g):**

*"§ 130A-336. Improvement permit and authorization for wastewater system construction required. (a) Any proposed site for a residence, place of business, or place of public assembly in an area not served by an approved wastewater system **shall be evaluated by either** (i) the local health department in accordance with rules adopted pursuant to this Article **or** (ii) by a professional engineer, licensed soil scientist, or licensed geologist acting within the engineer's, soil scientist's, or geologist's scope of work, as applicable, and **pursuant to the conditions of the engineered option permit** in G.S. 130A-336.1.*

4.14(c) EOP provisions

- Must meet all the rules (rules “at least as stringent”)
 - We envision a parallel process with essentially identical technical requirements
- Responsibility lies with the engineer
- Owner must indicate acceptance of system design from engineer via notarized signature
- No “Public” Liability – Excludes “The Department, the Department’s authorized agents, or LHDs” from liability for systems designed, constructed and installed pursuant to an EOP
- LHD still has responsibilities

4.14(c) EOP provisions

- Property owners and others can file complaints with appropriate licensing Board or Commission.
- We have the opportunity to report on the efficacy of this option.

4.14(c) Some concerns about the EOP

- Liability (engineer, contractor, owner; no public liability)
- “Completeness review” procedures
- Post construction conference
- PE may propose technologies not approved in NC
- Fees

Rules for Section 4.14

- We must draft Temporary rules for the EOP by June 1, 2016 and permanent rules by January 1, 2017
- EOP cannot be used until Rules are in place
- All other provisions effective immediately

Section 4.14(g)

- CA is transferable

“Neither the improvement permit nor the authorization for wastewater system construction shall be affected by change in ownership of the site for the wastewater system provided both the site for the wastewater system and the facility the system serves are unchanged and remain under the ownership or control of the person owning the facility.”

Section 4.14.(i): Permit Extension

Mini permit extension Act

- Provides that any IP or CA that is valid on Oct. 22, 2015, which is scheduled to expire on or before July 1, 2016, will remain in effect until July 1, 2016.

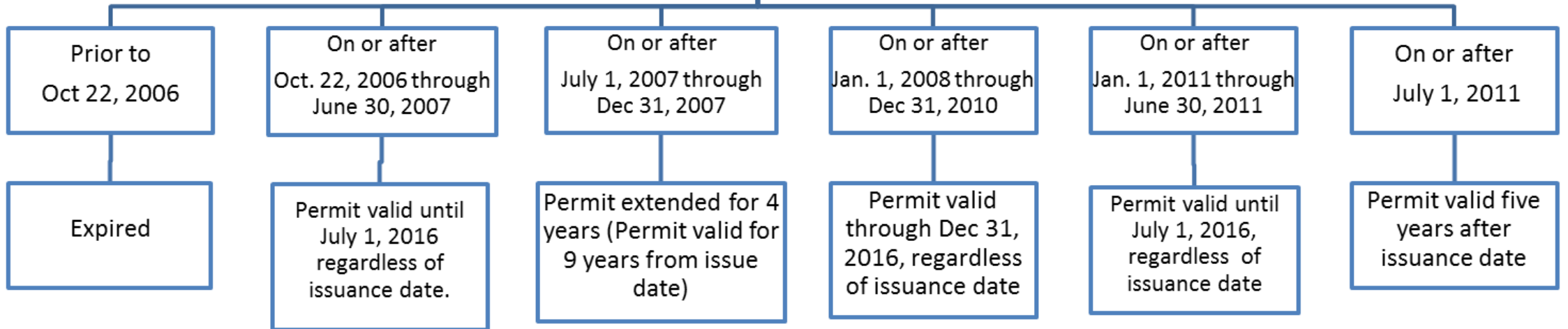
SL 2009-406
Effective August 5, 2009

SL 2010-177
Effective August 2, 2010

SL 2015-286
Effective October 22, 2015

Draft

IP/CA Issued



Section 4.14(j)

- Removes requirement for RWTS to be maintained by a subsurface operator whom is also a certified wastewater treatment facility operator (Grade II designation) for systems <1500 gpd.

Section 4.14A

Amends G.S. 90A-72

- Grease Trap installation – licensed plumber need not have NCOWCICB license to install grease traps included in onsite systems.
- LHD still :
 - permits
 - inspects

Section 4.15.(a) amends provisions for I&E systems

- Removed *Experimental* category
- Renamed *Controlled Demo* as “*Provisional*”
- Modified *Accepted* system definition and approvals to be applicable to “dispersal” systems only
- Struck language referring to formation of technical advisory committee. Does not preclude our consultation with stakeholders prior to Department rendering decision

H 765 S.L. 2015-286:

Required Reports are the:

- ***COLLECTIVE responsibility of “the Commission for Public Health, in consultation with the Department of Health and Human Services, local health departments, and stakeholders representing the wastewater system industry...”***

Section 4.14(c) – Report on:

- Implementation and effectiveness of EOP
 - Reduced time, increase malfunction, new or increased PH affects?
 - Amount of E&O insurance appropriate?
 - Fees adequate?
- Report starting Jan. 1, 2017, then annually

Section 4.14(f) - Report on minimum inspection frequency, including:

- Compliance history (operator and lab reports)
- Consider alternative frequencies using web-based monitoring alternative
- Whether required verification visit shows statistically significant justification of “duplicative” costs
- Methods for notification of changes to and expirations of OP contracts
- Methods for LHD to provide Cert Op management for sites not under contract to a WPCSOCC operator
- On or before March 1, 2016

Section 4.14(h) – Report on:

- Period of IP and CA validity
- Cost/benefit of a range of periods of validity
- Report by April 1, 2016

Section 4.15(c) – Report on:

- Progress to adopt or amend rules pursuant to this act.
- Beginning Jan. 1, 2016 and quarterly thereafter

Section 4.15(d) - Report on:

- Cost/benefit of requiring treatment standards greater than those listed by nationally recognized standards
- On or before March 1, 2016

Overview of Rules Revision Effort

15A NCAC 18A .1900

Structure of the review process

- Established a short period for the process
- Staff Initial Draft of most rules distributed September, 2015
- Stakeholder groups play a vital role

Organization	Contact name
Public Sector	
NC Association of Local Health Directors (NCALHD)	Steve Smith, Henderson Co. Health Dept.
NC Public Health Association (NCPHA)	Stacey Robbins, EH Section Council Member
NC EH Supervisor's Association (NCEHSA)	Andrew Blethen, App. District
Eastern Regional EH Supervisors	Danny Thornton, Brunswick County
Central Regional EH Supervisors	Greg Hennessee
Western Regional EH Supervisors	Doug McVey
NEEHD	Len Gilstrap, Carteret County
SEEHD	Daniel Ortiz, Cumberland County
CEHD	Cheryl Bono-Zehia, Durham County
WPEHD	Josh Jordan
Mountain EH Section	Corey Morris
Private Sector Professional	
Soil Science Society of NC (SSSNC)	Jeff Vaughn
Professional Engineers of NC (PENC)	Susan Woolard
NC Septic Tank Association (NCSTA)	Doug Lassiter
Rule Review Stakeholder Group	TBD
Consulting Soil Scientists of the Carolinas	Larry Baldwin
Licensing/Certification Boards or Commissions	
NC Board of Examiners for Licensed Soil Scientists (NC BLSS)	Connie Adams, Chair
NC Board of Examiners for Engineers and Surveyors (NCBELS)	Andrew Ritter, Executive Director
NC Onsite Wastewater Contractor Inspector Certification Board (NCOWCICB)	Connie Stephens
Water Pollution Control System Operators Cert. Commission (WPCSOCC)	Steve Reid

Role of Stakeholder Groups

- Primary contact collects comments
- Conduct group discussion with intent of reaching majority consensus
- Group's VETTED comments to the Branch by Feb. 29.
- Unaffiliated in-state individuals
- Unaffiliated out-of-state

Moving forward depends on receiving vetted comments

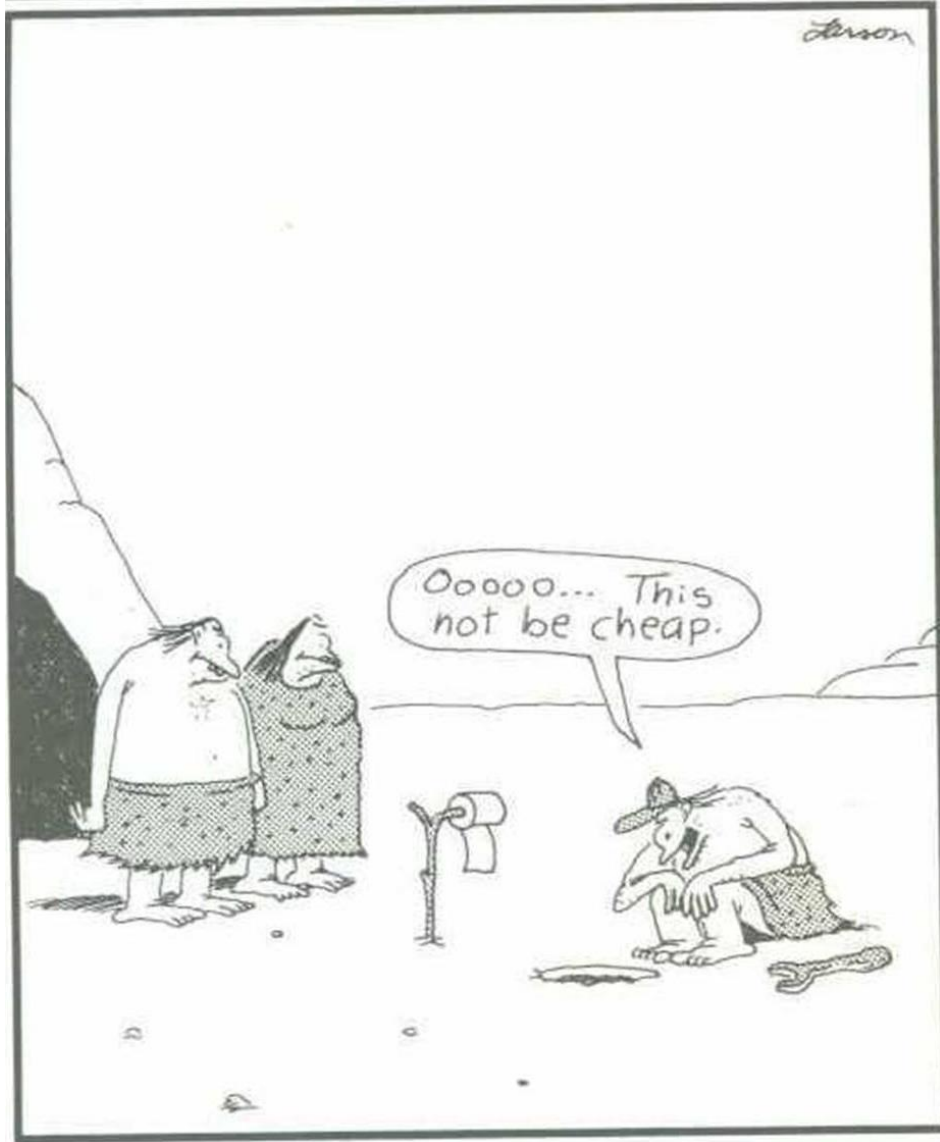
- Branch will compile written comments and respond to each as follows:
 - Agree and add to draft
 - Agree with modifications and add
 - Agree but determine that issue is better addressed in guidance instead of Rule
 - Reject with justification
- Designed to demonstrate accountability

Meeting with Groups

- We are scheduling meetings with Stakeholder groups
- At a regularly scheduled meeting or a special one
- Written comments submitted to State in advance of meetings
- Target: Draft to Rules Review Commission by **June 1, 2016**

Late Additions

- Drafts of .1969 and .1970 distributed last month
- Draft of temporary EOP Rule will be released for review in the very near future



Questions & Comments

Tricia Angoli (tricia.angoli@dhhs.nc.gov)

Kevin Neal (kevin.neal@dhhs.nc.gov)

Nancy Deal (nancy.deal@dhhs.nc.gov)