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

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