

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

October 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 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 4.15. 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).

Current Status of Activities around Section 4.15

Division of Public Health On-Site Water Protection (OSWP) Branch staff are continuing to work on the proposed 15A NCAC 18E rules and the associated fiscal note for the permanent rule revision. The 15A NCAC 18A .1900 rules will be repealed concurrently with the adoption of 15A NCAC 18E rules. No fiscal note is required for the repeal of the 15A NCAC 18A .1900 rules.

The Commission for Public Health approved the fiscal note for the proposed 15A NCAC 18E rules at their August 9, 2017, meeting. OSWP was also given approval by the Commission to move ahead with the formal rule making process – the first step being publication in the *North Carolina Register*. The proposed 15A NCAC 18E rules, the 15A NCAC 18E fiscal note, and the proposed repeal of the 15A NCAC 18A .1900 rules were submitted to the Office of

Administrative Hearings for publication in the September 1, 2017 edition of the *North Carolina Register*.

The public hearing on the proposed 15A NCAC 18E rules is set for Monday October 2, 2017, starting at 10 am in the Cardinal Conference Room, located at 5605 Six Forks Rd, Raleigh, NC. OSWP also has two other listening meetings scheduled to receive comments on the proposed rules (Wednesday, September 20, 2017 in Greenville and Wednesday, October 4, 2017 in Asheville). Comments received at the public hearing and the listening meetings will be on the proposed 15A NCAC 18E rules, the 15A NCAC 18E fiscal note, and the proposed repeal of 15A NCAC 18A .1900.

The tentative schedule for the approval of the 15A NCAC 18E rules and the repeal of the 15A NCAC 18A .1900 rules has been revised as follows to accommodate the Commission for Public Health quarterly meeting schedule and to follow the Administrative Procedures Act:

- September 1, 2017 Published in NC Register
- September 20, 2017 Listening meeting, Greenville, NC
- October 2, 2017 Public Hearing, Raleigh, NC
- October 4, 2017 Listening meeting, Asheville, NC
- October 31, 2017 End of public comment period
- November 8, 2017 Commission for Public Health meeting for rules 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 of revised rules

Next Steps for Implementation of Section 4.15

- OSWP staff will proceed with the complete 15A NCAC 18A .1900 rule revision process.
- OSWP staff will follow the timeline above to complete the formal rule making process as expeditiously as allowed under the Administrative Procedures Act.