



DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH

ROY COOPER
GOVERNOR

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SECRETARY

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MEMORANDUM

DATE: October 20, 2017
TO: Environmental Health Community
FROM: NC DHHS DPH EHS OWPB
RE: Wastewater System Permit Extension pursuant to Session Law 2017-211

Session Law 2017-211 (SB16) became law effective on October 5, 2017. Section 19 reads as follows:

WASTEWATER SYSTEM PERMIT EXTENSION

SECTION 19. G.S. 130A-336 is amended by adding a new subsection to read:

"(b1) An improvement permit or authorization for wastewater system construction issued by a local health department from January 1, 2000, to January 1, 2015, which has not been acted on and would have otherwise expired, shall remain valid until January 1, 2020, without penalty, unless there are changes in the hydraulic flows or wastewater characteristics from the original local health department evaluation. Permits are transferrable with ownership of the property. Permits shall retain the site, soil evaluations, and construction conditions of the original permit."

Pursuant to the above, Improvement Permits (IPs) and Construction Authorizations (CAs) issued from January 1, 2000, to January 1, 2015 which have not been acted on are now re-instated and valid provided that:

1. Design daily flow ("hydraulic flow") is unchanged.
2. Nature of stated use (wastewater characteristics) is unchanged.
3. The site has not been modified relative to the original soil and site evaluation documentation.

If design daily flow or wastewater characteristics have changed, the permit is not subject to extension and a new application is required. As with any permitted site, if an evaluation or site visit (preconstruction conference, well site visit, installation inspection, etc.) reveals that the designated site (or an adjacent site) has changed such that the system cannot be installed as permitted and meet

Article 11 of GS Chapter 130A, 15A NCAC 18A .1900 and all conditions prescribed by the IP and CA, the LHD should immediately issue a letter of Intent to Suspend or Revoke the permit.

If the IP was *acted on*, it means that the owner started or even completed site modifications necessary to proceed in the permitting process, which may have resulted in the alteration of soil/site conditions. In this case, the permit is not subject to extension and the owner must reapply for an IP.

If the CA was *acted on*, meaning construction/installation of the permitted wastewater system and/or facility began but was not completed, the permit is not subject to extension and the owner must reapply for an IP/CA to proceed.

Reinstated IPs

As with any site where an IP only was issued, the owner/legal representative seeking to proceed with construction shall complete an application for a CA following the procedures currently in place at the LHD. This includes the submission of an application and a site plan, and preparation of the property. The LHD shall visit the site to confirm that all provisions of 130A-335(f) above and 15A NCAC 18A .1900 can be met prior to CA issuance. If the system described cannot be installed or if any other provision described in 130A-335(f) cannot be met, the LHD shall immediately issue a letter of Intent to Revoke the IP, including appeal rights.

Reinstated CAs

Pursuant to 130A-335(f1), the owner or developer (or their agent) and a representative of the LHD shall meet for a preconstruction conference on the site for any CA that is greater than 5 years old. This should be strictly observed. If, during the preconstruction conference it is discovered that the system described cannot be installed as permitted to meet the rules, and if no modifications are possible to achieve compliance, the LHD should immediately issue a letter of Intent to Revoke the permit, including appeal rights.

If the system described on the CA can be installed as permitted and meet the rules, the LHD shall notify the owner of that fact. As further prescribed in 130A-335(f1):

“Following the conference, the local health department shall advise the owner or developer of any rule changes for wastewater system construction incorporating current technology that can reasonably be expected to improve the performance of the system. The local health department shall issue a revised authorization for wastewater system construction incorporating the rule changes upon the written request of the owner or developer.”

Discovery at Installation

Should the LHD discover on the date of installation that a site was altered such that the system installation is not in compliance with Article 11 of GS Chapter 130A, 15A NCAC 18A .1900 and the conditions prescribed by the IP and CA, corrections shall be made to bring the system into compliance {(15A NCAC 18A 1937(i)}. If corrections cannot be made, an authorized agent shall not issue an OP and the system shall not be placed into use. An authorized agent making the determination shall prepare a written report referencing the site modifications and deficiencies in the system installation,

including a letter of Intent to Revoke the IP and/or CA, as applicable. A copy of the report shall be provided to the property owner and the installer.

Owner-Submitted Permit, No Record on File

The permit extension act applies even if LHD records have been purged in accordance with the records retention and disposition schedule. Paperwork submitted by an owner/authorized agent with no file available at the LHD shall be re-instated and valid if:

1. The document(s) appear unaltered.
2. Both the permit(s) and site plan(s) are provided, and are consistent with documentation issued at that time.
3. The permit(s) bear the signature of a person who was an authorized agent on the date it was signed.

Depending on the documentation provided, proceed as indicated above in previous sections of this document.

Additional Information and Assistance

It is unlikely that this Memorandum addresses the full range of issues that will arise because of this legislative change. Should you have any questions regarding this guidance, please contact your Regional Soil Scientist for assistance.