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DIVISION OF PUBLIC HEALTH

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May 29, 2019

POSITION STATEMENT: Design Daily Sewage Flow for a Food Establishment Served by an On-site Wastewater Treatment and Dispersal System

PURSUANT TO: N.C.G.S. 130A-248; 15A NCAC 18A .1900; 15A NCAC 18A .2600

SOURCE: Shane Smith, Head, Food Protection and Facilities Branch and Nancy Deal, Head, On-site Water Protection Branch

QUESTION/ISSUE: What seats count when calculating a design daily sewage flow for a food establishment in a mixed-use setting?

DISCUSSION AND RATIONALE:

Local Health Departments and industry have requested guidance on determining (1) what seats count when calculating the design daily sewage flow for a food establishment served by an on-site wastewater treatment and dispersal system; (2) the manner in which operation permits, and food establishment permits should document the seats; and (3) other information relevant to the operation when multiple businesses are located on the premises.

Premises, defined in the North Carolina Food Code Manual (Code), includes the physical facility, its contents, and the contiguous land or property under the control of the permit holder. The definition also includes the physical facility, its contents, and the land or property if its facilities and contents are under the control of the permit holder and may impact food establishment personnel, facilities, or operations, and a food establishment is only one component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, prison, flea market, food court or similar "mixed use" scenario.

Sewage flow rates for design units are described in Sewage Treatment and Disposal Systems 15A NCAC 18A .1949.

RESPONSE / INTERPRETATION:

The following guidance is provided to assist in determining the design daily sewage flow for food establishments served by an individual sewage disposal system, including food establishments that are part of multi-business or "mixed use" facilities.

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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

1. If the permit holder of the .2600 permitted food establishment owns and maintains control of multiple businesses on the same property, this establishment is considered “mixed use”. The premises of the permitted facility may include sewage flow from multiple activities. The sewage flow generated from all activities shall be accounted for in design daily flow calculations and resulting system design. If the permitted facility has a dedicated wastewater system, areas of the premises strictly designated for non-food service use should not be considered part of the design daily sewage flow for the .2600 permitted food establishment.
2. If the .2600 permitted food establishment is owned or operated by a separate entity, the premises will be considered as property for use by the permit holder. This area shall be considered the property under the control of the permit holder and shall be documented on the .2600 permit issued to the food establishment operator. Seating outside the premises or not under the control of the permit holder is not to be included in the calculation.
3. For purposes of calculating a design daily sewage flow for a food establishment, a seat, accompanied by a table top, shall be considered a place that is designated by the permit holder for a customer to sit and eat on the premises of the establishment. Chairs, rocking chairs, benches and other seats that are designated for waiting, do not have a table top and are not otherwise used for dining shall not be considered a seat under the .1900 permit allowance for the design daily sewage flow for the permitted food establishment.
4. The permit holder may only provide the allotted number of seats as documented on the establishment’s .1900 permit. The number of seats shall also be documented on the food establishment’s .2600 permit. The number of seats documented on the food establishment’s .2600 permit shall not exceed the number of seats documented on the establishment’s .1900 permit. Rule 15A NCAC 18A .2659(c) states in part, “The regulatory authority shall impose conditions on the issuance of a permit or transitional permit if necessary to ensure that a food establishment remains in compliance with this Section. Conditions may be specified for one or more of the following areas: (1) The number of seats or consumers served.”
5. If the permit holder wants to provide more seats than what is allowed in the establishment’s .1900 permit, the permit holder may request an adjusted design daily flow in accordance with 15A NCAC 18A .1949(c) or Session Laws 2014-120 and 2013-413. The owner may alternately choose to have a flow reduction approved under the Engineered Option Permit (EOP) provisions of G.S.130A-336.1 and 15A NCAC 18A .1971.
6. There is no established horizontal separation distance from the food establishment that dictates whether seating is either included or excluded in design daily flow calculations. This is dependent upon the specific operation of the businesses. The permit holder must designate the operation area of the food establishment and provide a written plan indicating the location of seating for both dining and non-dining customers.
7. If there are seats with table tops nearby (but not on the premises) of the food establishment and those seats are not under control of the permit holder, the flow attributed to their specific use shall be accounted for in other calculations as specified in Number 1.

Please contact your Environmental Health Regional Specialist or your Regional Soil Scientist (as appropriate) if you have any questions.

REFERENCES:

N.C.G.S. 130A-248

N.C.G.S. 130A-335

Session Laws 2014-120 and 2013-413

Rules Governing Sewage Treatment and Disposal Systems (15A NCAC 18A .1900)

North Carolina Food Code Manual

Rules Governing the Food Protection and Sanitation of Food Establishments (15A NCAC 18A .2600) North Carolina

NOTE: Position statements are policy documents to clarify how to interpret or enforce a law or rule. They are not enforceable on their own, but are intended to promote uniform interpretation and enforcement of the underlying law or rule.