

**Annual Progress Report on Authorized Onsite
Wastewater Evaluator Permit Option**

Session Law 2019-151, Section 14



Report to

The Environmental Review Commission

and

**The Joint Legislative Oversight Committee
on Health and Human Services**

by

NC Department of Health and Human Services

February 8, 2023

REPORTING REQUIREMENTS

Session Law 2019-151, Section 14 requires reporting by the Department of Health and Human Services (DHHS) to the Environmental Review Commission and the Joint Legislative Oversight Committee on Health and Human Services beginning January 1, 2020, and every year thereafter, on the efficiency and effectiveness of the Authorized On-Site Wastewater Evaluator (AOWE) permit option.

The legislation directs DHHS to report upon six items regarding the AOWE and its efficiency and effectiveness. The six items are as follows:

- (i) Whether the program aided in reducing the length of time in issuing permits;
- (ii) Wastewater systems developed under this law;
- (iii) Suggestions for improvements in the law;
- (iv) Suggestions regarding adequate and appropriate insurance coverage;
- (v) Suggestions regarding operator reporting requirements; and
- (vi) Suggestions regarding the fees collected by the local health departments.

BACKGROUND

The AOWE permit option provides homeowners with an alternative process which can help expedite the permitting process when Local Health Departments (LHDs) have permitting backlogs. The AOWE permit option process contains two steps, a Notice of Intent to Construct (NOI) and an Authorization to Operate (ATO). The NOI is similar to the improvement permit issued by the LHD and contains the results of the soil and site evaluation for the site which indicate that an on-site wastewater treatment and disposal system can be sited, sized, and installed on the property in accordance with Article 11 of Chapter 130A and 15A NCAC 18A .1900. The ATO is similar to the operation permit issued by the LHD and includes the on-site wastewater system design and the results of the final inspection. A building permit can be issued after the NOI has been determined to be complete and a certificate of occupancy can be issued after an ATO has been determined to be complete.

CURRENT STATUS AND SUGGESTIONS

The North Carolina On-Site Wastewater Contractors and Inspectors Certification Board establishes and administers the training, classes, and examinations necessary to become an authorized AOWE. The classes were held three times in 2022 and exams are offered four times a year.

- (i) **Has the program aided in reducing the length of time in issuing permits?**
AOWE permits have helped reduce the length of time to receive a permit for those that choose this permitting pathway. North Carolina has seen a significant increase in applications for permits over the past two years, and AOWE permits have helped LHDs by offering another option to the public. In return, this has reduced the wait time for a permit from the LHD.

(ii) Wastewater systems that have been developed under this law.

The type of system that has been installed primarily under this law is an accepted system.

(iii) Suggestions for improvements in the law.

- DHHS recommends auditing of AOWE permits. Unlike AOWE permits, LHD permits must go through a DHHS program review every four years which helps to ensure that the public is receiving a good product that promotes public health and protects the environment. Currently, AOWEs have no such program review process in place to protect the public.
- DHHS recommends the required fee for issuance of the ATO to be paid as part of the NOI submittal. Although the law states the fee shall be paid prior to issuance of the ATO, some LHDs have reported that they are not receiving the required fee for issuance of the ATO. Requiring the fee to be paid with the NOI submittal could help to avoid this problem. Without paying the fee, the ATO may never be issued by the LHD which can create a huge issue for the homeowner upon selling the home in the future. If the fee is not paid, the LHD is performing all of their duties related to this statute without compensation.

(iv) Suggestions regarding adequate and appropriate insurance coverage.

This information is not available to DHHS. The role of DHHS as it relates to AOWEs is to guide the LHDs in receiving NOIs and archiving AOWE information as mandated. Assessing the adequacy of insurance coverage provided by certified or licensed professionals is outside the scope of our jurisdiction.

(v) Suggestions regarding operator reporting requirements.

AOWEs have been issuing permits for less than one year, and DHHS does not have enough information to make any suggestions regarding operator reporting requirements at this time.

(vi) Suggestions regarding the fees collected by the local health departments.

DHHS recommends the required fee for issuance of the ATO to be paid as part of the NOI submittal. Although the law states the fee shall be paid prior to issuance of the ATO, some LHDs report that they are not receiving the required fee. Requiring the fee to be paid with the NOI submittal could avoid this problem. Without payment of the fee, the ATO may never be issued by the LHD which can create a huge issue for the homeowner upon selling the home in the future. If the fee is not paid, the LHD is performing their duties related to the statute without compensation. DHHS also received feedback from some LHDs that the fee is insufficient. However, AOWEs have been issuing permits for less than one year and DHHS does not have enough information at this time to determine if the fee is sufficient for LHDs.