



The National Agricultural Law Center

nationalaglawcenter.org | nataglaw@uark.edu | [@nataglaw](https://twitter.com/nataglaw)

State NPDES Authority Statutes:

South Carolina



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication

State NPDES Authority Statutes: South Carolina

[SC Code § 48-1-30](#)

[SC Code § 48-1-40](#)

[SC Code § 48-1-50](#)

[SC Code § 48-1-110](#)

[SC Code § 48-1-140](#)

Current through the 2022 legislative session.

§ 48-1-30. Promulgation of Regulations; Approval of Alternatives.

The Department shall promulgate regulations to implement this chapter to govern the procedure of the Department with respect to meetings, hearings, filing of reports, the issuance of permits and all other matters relating to procedure. The regulations for preventing contamination of the air may not specify any particular method to be used to reduce undesirable levels, nor the type, design, or method of installation or type of construction of any manufacturing processes or other kinds of equipment. Except where the Department determines that it is not feasible to prescribe or enforce an emission standard or standard of performance, it may, by regulation, specify equipment, operational practice, or emission control method, or combination thereof. The Department may grant approval for alternate equipment, operational practice, or emission control method, or combination thereof, where the owner or operator of a source can demonstrate to the Department that such alternative is substantially equivalent to that specified.

§ 48-1-40. Adoption of Standards for Water and Air.

The Department, after public hearing as herein provided, shall adopt standards and determine what qualities and properties of water and air shall indicate a polluted condition and these standards shall be promulgated and made a part of the rules and regulations of the Department. The Department, in determining standards and designing the use of streams shall be guided by the provisions of this chapter.

§ 48-1-50. Powers of Department.

The Department may:

- (1) Hold public hearings, compel attendance of witnesses, make findings of fact and determinations and assess such penalties as are herein prescribed;



- (2) Hold hearings upon complaints or upon petitions in accordance with § 48-1-140 or as otherwise provided in this chapter;
- (3) Make, revoke or modify orders requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the State, or the discharge of air contaminants into the ambient air so as to create an undesirable level, resulting in pollution in excess of the applicable standards established. Such orders shall specify the conditions and time within which such discontinuance must be accomplished;
- (4) Institute or cause to be instituted, in a court of competent jurisdiction, legal proceedings, including an injunction, to compel compliance with the provisions of this chapter or the determinations, permits and permit conditions and orders of the Department. An injunction granted by any court shall be issued without bond;
- (5) Issue, deny, revoke, suspend or modify permits, under such conditions as it may prescribe for the discharge of sewage, industrial waste or other waste or air contaminants or for the installation or operation of disposal systems or sources or parts thereof; provided, however, that no permit shall be revoked without first providing an opportunity for a hearing;
- (6) Conduct studies, investigations and research with respect to pollution abatement, control or prevention. Such studies shall include but not be limited to, air control, sources, disposal systems and treatment of sewage, industrial waste or other wastes, by all scientific methods and, if necessary, of the use of mobile laboratories;
- (7) Settle or compromise any action or cause of action for the recovery of a penalty or damages under this chapter as it may deem advantageous to the State;
- (8) Cooperate with the governments of the United States or other states or State agencies or organizations, official or unofficial, in respect to pollution control matters or for the formulation of interstate pollution control compacts or agreements;
- (9) Prepare and develop a general comprehensive program for the abatement, control and prevention of air and water pollution;
- (10) Require to be submitted to it and consider for approval plans for disposal systems or sources or any parts thereof and inspect the construction thereof for compliance with the approved plans;
- (11) Administer penalties as otherwise provided herein for violations of this chapter, including any order, permit, regulation or standards;
- (12) Accept, receive and administer grants or other funds or gifts for the purpose of carrying out any of the purposes of this chapter; accept, receive and receipt for Federal money given by the Federal government under any Federal law to the State of South Carolina for air or water control activities, surveys or programs;



- (13) Encourage voluntary cooperation by persons, or affected groups in restoration and preservation of a reasonable degree of purity of air and water;
- (14) Collect and disseminate information on air or water control;
- (15) Approve projects for which applications for loans or grants under the Federal Water Pollution Control Act or the Federal Air Quality Act are made by any municipality (including any city, town, district, or other public body created by or pursuant to the laws of this State and having jurisdiction over disposal of sewage, industrial wastes or other wastes) or agency of this State or by an interstate agency;
- (16) Participate through its authorized representatives in proceedings under the Federal Water Pollution Control Act or the Federal Air Quality Act to recommend measures for abatement of water pollution originating in this State;
- (17) Take all action necessary or appropriate to secure to this State the benefits of the Federal Water Pollution Control Act or the Federal Air Quality Act and any and all other Federal and State acts concerning air and water pollution control;
- (18) Consent on behalf of the State to request by the Federal Security Administrator to the Attorney General of the United States for the bringing of suit for abatement of such pollution;
- (19) Consent to the joinder as a defendant to such suit of any person who is alleged to be discharging matter contributing to the pollution, abatement of which is sought in such suit;
- (20) Conduct investigations of conditions in the air or waters of the State to determine whether or not standards are being contravened and the origin of materials which are causing the polluted condition;
- (21) Establish the cause, extent and origin of damages from waste including damages to the fish, waterfowl, and other aquatic animals and public property which result from the discharge of wastes to the waters of the State;
- (22) Require the owner or operator of any source or disposal system to establish and maintain such operational records; make reports; install, use, and maintain monitoring equipment or methods; sample and analyze emissions or discharges in accordance with prescribed methods, at locations, intervals, and procedures as the Department shall prescribe; and provide such other information as the Department reasonably may require;
- (23) Adopt emission and effluent control regulations, standards and limitations that are applicable to the entire State, that are applicable only within specified areas or zones of the State, or that are applicable only when a specified class of pollutant is present;
- (24) Enter at all times in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to pollution or the possible pollution of



the environment of the State. Its authorized agents may examine and copy any records or memoranda pertaining to the operation of a disposal system or source that may be necessary to determine that the operation thereof is in compliance with the performance as specified in the application for a permit to construct; *provided, however*, that if such entry or inspection is denied or not consented to, and no emergency exists, the Department is empowered to and shall obtain from the magistrate from the jurisdiction in which such property, premise or place is located, a warrant to enter and inspect any such property, premise or place prior to entry and inspection. The magistrate of such jurisdiction is empowered to issue such warrants upon a proper showing of the needs for such entry and inspection. The results of any such inspection and investigation conducted by the Department shall be reduced to writing and a copy shall be furnished to the owner or operator of the source or disposal system; and

(25) Issue orders prohibiting any political entity having the authority to issue building permits from issuing such permits when the political entity has been ordered to correct a condition which has caused or is causing pollution. *Provided*, that no such order shall be issued until the State is capable of participating in Federal, State and local cost-sharing arrangements for municipal waste treatment facilities as set forth in the Clean Water Restoration Act of 1966.

(26) Review and consider the environmental compliance history of an applicant or person that is or operates an advanced recycling facility, as defined by Section 44-96-40, in making a determination to issue, reissue, deny, revoke, modify, or suspend a permit or interim status; prohibit the transfer of a permit or the transfer or achievement of interim status; or prohibit a change in the ownership of or a controlling interest in an existing advanced recycling facility.

§ 48-1-110. Permits Required for Construction or Alteration of Disposal Systems; Classification; Unlawful Operations or Discharges.

(a) It shall be unlawful for any person, until plans therefor have been submitted to and approved by the department and a written permit therefor shall have been granted to:

- (1) Construct or install a disposal system or source;
- (2) Make any change in, addition to or extension of any existing disposal system or part thereof that would materially alter the method or the effect of treating or disposing of the sewage, industrial waste or other wastes;
- (3) Operate such new disposal systems or new source, or any existing disposal system or source;
- (4) Increase the load through existing outlets of sewage, industrial waste or other wastes into the waters of the State.



(b) The director of Health and Environmental Control shall classify all public wastewater treatment plants, giving due regard to size, types of work, character, and volume of waste to be treated, and the use and nature of the water resources receiving the plant effluent. Plants may be classified in a group higher than indicated at the discretion of the classifying officer by reason of the incorporation in the plant of complex features which cause the plant to be more difficult to operate than usual or by reason of a waste unusually difficult to treat, or by reason of conditions of flow or use of the receiving waters requiring an unusually high degree of plant operation control or for combinations of such conditions or circumstances. The classification is based on the following groups:

(1) For biological wastewater treatment plants: Group I-B. All wastewater treatment plants which include one or more of the following units: primary settling, chlorination, sludge removal, imhoff tanks, sand filters, sludge drying beds, land spraying, grinding, screening, oxidation, and stabilization ponds. Group II-B. All wastewater treatment plants which include one or more of the units listed in Group I-B and, in addition, one or more of the following units: sludge digestion, aerated lagoon, and sludge thickeners. Group III-B. All wastewater treatment plants which include one or more of the units listed in Groups I-B and II-B and, in addition, one or more of the following: trickling filters, secondary settling, chemical treatment, vacuum filters, sludge elutriation, sludge incinerator, wet oxidation process, contact aeration, and activated sludge (either conventional, modified, or high rate processes). Group IV-B. All wastewater treatment plants which include one or more of the units listed in Groups I-B, II-B, and III-B and, in addition, treat waste having a raw five-day biochemical oxygen demand of five thousand pounds a day or more.

(2) Effective July 1, 1987, for physical-chemical wastewater treatment plants: Group I-P/C. All wastewater treatment plants which include one or more of the following units: primary settling, equalization, pH control, and oil skimming. Group II-P/C. All wastewater treatment plants which include one or more of the units listed in Group I-P/C and, in addition, one or more of the following units: sludge storage, dissolved air flotation, and clarification. Group III-P/C. All wastewater treatment plants which include one or more of the units listed in Groups I-P/C and II-P/C and, in addition, one or more of the following: oxidation/reduction reactions, cyanide destruction, metals precipitation, sludge dewatering, and air stripping. Group IV-P/C. All wastewater treatment plants which include one or more of the units listed in Groups I-P/C, II-P/C, and III-P/C and, in addition, one or more of the following: membrane technology, ion exchange, tertiary chemicals, and electrochemistry.

(c) It shall be unlawful for any person or municipal corporation to operate a public wastewater treatment plant unless the operator-in-charge holds a valid certificate of registration issued by the Board of Certification of Environmental Systems Operators in a grade corresponding to the classification of the public wastewater treatment plant supervised by him, except as hereinafter provided.



(d) It shall be unlawful for any person to operate an approved waste disposal facility in violation of the conditions of the permit to construct or the permit to discharge.

(e) It shall be unlawful for any person, directly or indirectly, negligently or willfully, to discharge any air contaminant or other substance in the ambient air that shall cause an undesirable level.

§ 48-1-140. Revision or Modification of National Pollutant Discharge Elimination System or Final Compliance Date for Stationary Source or Class or Sources of Air Pollution.

(a) The Department may, after notice and opportunity for a public hearing, revise or modify a **national pollutant** discharge elimination system permit in accordance with the procedures and criteria set out in Sections 301(c), 302 and 316(a) of the Federal Water Pollution Control Act Amendments of 1972.

(b) The Department may, after notice and opportunity for a public hearing, revise or modify a final compliance date for any stationary source or class or sources of air pollution whether contained in regulations or a compliance order, if the Department determines that

(1) good faith efforts have been made to comply with such requirement before such date;

(2) such source (or class) is unable to comply with such requirement because the necessary technology or other alternative methods of control are not reasonably available or have not been available for a sufficient period of time;

(3) any available alternative operating procedures and interim control measures have reduced or will reduce the impact of such source on public health;

(4) the continued operation of such source is essential to national security or to the public health or welfare.

Provided, however, that where the compliance date is one prescribed in the State Implementation Plan, the findings and recommendations of the Department shall be submitted to the Governor for transmittal to the Administrator of the Federal Environmental Protection Agency or his designated representative for his concurrence or rejection. Rejection by the administrator may constitute grounds for rejection of a request for modification or revisions of such compliance requirement.

(c) Any determination under items (a) or (b) of this section shall (1) be made on the record after notice to interested persons and opportunity for hearing, (2) be based upon a fair evaluation of the entire record at such hearing, and (3) include a statement setting forth in detail the findings and conclusions upon which the determination is based.

