



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

**Nutrient Management Plans
Statutes & Regulations**

South Carolina

www.NationalAgLawCenter.org



Nutrient Management Plans

STATE OF SOUTH CAROLINA

- 1) **S.C. Code Ann. §§ 47-20-165, 48-1-10(23), 48-1-30, 90, 100; S.C. Code Regs. §§ 61-43-50, 100.50**
- 2) **S.C. Code Ann. §§ 48-1-10(23), 48-1-30, 90, 100; S.C. Code Regs. § 61-43-200.50**
- 3) **S.C. Code Ann. §§ 48-1-30, 90, 100; S.C. Code Regs. § 61-43-400.40**

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the South Carolina Legislative Services Agency.

1) S.C. Code Ann. §§ 47-20-165, 48-1-10(23), 48-1-30, 90, 100; S.C. Code Regs. §§ 61-43-50, 100.50

§ 47-20-165. Promulgation and effect of separate and distinct confined swine feeding operations regulations.

(A) In addition to any regulations authorized to be promulgated pursuant to this chapter, the Department of Health and Environmental Control shall promulgate regulations regarding confined swine feeding operations which are separate and distinct from the regulations promulgated pursuant to this chapter.

(B) The separate and distinct regulations shall not be proposed until after the regulations required to be promulgated pursuant to this chapter take effect.

(C) The provisions of this chapter and Section 46-45-30 are severable and enforceable irrespective of whether a particular regulation has been promulgated.

(D)

(1) The separate and distinct regulations shall include, but are not limited to, including the following:

- (a) definitions;
- (b) setback requirements;
- (c) land application rates for animal waste and waste storage ponds;
- (d) lagoon construction and maintenance requirements;

- (e) odor control;
- (f) vector control;
- (g) application and annual operation fees;
- (h) monitoring wells;
- (i) certification of owners or operators of confined animal feeding operations and waste management systems;
- (j) public notice requirements; and
- (k) permit renewals.

(2) In addition, the separate and distinct regulations shall be based upon an evaluation of the impact upon the interests of the environment and agribusiness.

(3) In promulgating the separate and distinct regulations, the department shall use the limits, distances, and other requirements provided in this chapter as the basis for the regulations. When the department submits the proposed regulations to the General Assembly for approval, in addition to the information which must be filed pursuant to Section 1-23-120 of the 1976 Code, the department shall include an explanation for each change proposed in the separate and distinct regulations from the requirements of this chapter.

(E) When the regulations promulgated by the department pursuant to this section are approved by the General Assembly or take effect without action of the General Assembly, the provisions of this chapter and Section 46-45-30, and any regulations promulgated pursuant to authority granted in this chapter, are thereby repealed and shall no longer have the force and effect of law.

§ 48-1-10. Short title; definitions.

This chapter may be cited as the “Pollution Control Act” and, when used herein, unless the context otherwise requires:

[. . .]

(23) “Point source” means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel, or other floating craft, from which pollutants are or may be discharged.

§ 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.

§ 48-1-90. Causing or permitting pollution of environment prohibited; remedies.

(A)

(1) It is unlawful for a person, directly or indirectly, to throw, drain, run, allow to seep, or otherwise discharge into the environment of the State organic or inorganic matter, including sewage, industrial wastes, and other wastes, except in compliance with a permit issued by the department.

(2) The permit requirements of subsection (A)(1), Section 48-1-100, and Section 48-1-110 do not apply to:

(a) discharges in a quantity below applicable threshold permitting requirements established by the department;

(b) discharges for which the department has no regulatory permitting program;

(c) discharges exempted by the department from permitting requirements;
or

(d) normal farming, silviculture, aquaculture, ranching, and wildlife habitat management activities that are not prohibited by or otherwise subject to regulation.

(3) Subsection (A)(2) must not be construed to:

(a) impair or affect common law rights;

(b) repeal prohibitions or requirements of other statutory law or common law; or

(c) diminish the department's authority to abate public nuisances or hazards to public health or the environment, to abate pollution as defined in Section 48-1-10(7), or to respond to accidental discharges or spills.

(4) A person must first petition the department in writing for a declaratory ruling as to the applicability of a specific, existing regulatory program to a proposed or existing discharge into the environment, provided that the proposed or existing discharge is not exempt or excluded from permitting as is set forth in subsection (A)(2). The person proposing to emit or emitting such discharge must be named on and served with the petition. The department must, within sixty days after receipt of such petition, issue a declaratory ruling as to the applicability of such program to such discharge. If the department determines a permit is required under such program and that no exception or exclusion exists, including, but not limited to, the exceptions set forth in subsection (A)(2), the department must issue a declaration requiring the submission of an application to permit such discharge pursuant to the applicable permitting program. If the department further determines that immediate action is necessary to protect the public health or property due to such unpermitted discharge, the department may further declare the existence of an emergency and order such action as the department deems necessary to address the emergency. Any person to whom such emergency order is directed may apply directly to the Administrative Law Court for relief and must be afforded a hearing within forty-eight hours. Regardless of whether a hearing is held, the department must revoke all emergency orders as soon as conditions or operations change to the extent that an emergency no longer exists. A party contesting any department decision on a petition may request a contested case hearing in the Administrative Law Court. Notwithstanding the administrative remedy provided for in this section, no private cause of action is created by or exists under this chapter.

(B)

(1) A person who discharges organic or inorganic matter into the waters of this State as described in subsection (A) to the extent that the fish, shellfish, aquatic animals, wildlife, or plant life indigenous to or dependent upon the receiving waters or property is damaged or destroyed is liable to the State for the damages. The action must be brought by the State in its own name or in the name of the department.

(2) The amount of a judgment for damages recovered by the State, less costs, must be remitted to the agency, commission, department, or political subdivision of the State that has jurisdiction over the fish, shellfish, aquatic animals, wildlife, or plant life or property damaged or destroyed.

(3) The civil remedy provided in subsection (B)(2) is not exclusive, and an agency, commission, department, or political subdivision of the State with

appropriate authority may undertake in its own name an action to recover damages independent of this subsection.

§ 48-1-100. Permits for discharge of wastes or air contaminants; jurisdiction of department.

(A) A person affected by the provisions of this chapter or the rules and regulations adopted by the department desiring to make a new outlet or source, or to increase the quantity of discharge from existing outlets or sources, for the discharge of sewage, industrial waste or other wastes, or the effluent therefrom, or air contaminants, into the waters or ambient air of the State, first shall make an application to the department for a permit to construct and a permit to discharge from the outlet or source. If, after appropriate public comment procedures, as defined by department regulations, the department finds that the discharge from the proposed outlet or source will not be in contravention of provisions of this chapter, a permit to construct and a permit to discharge must be issued to the applicant. The department, if sufficient hydrologic and environmental information is not available for it to make a determination of the effect of the discharge, may require the person proposing to make the discharge to conduct studies that will enable the department to determine that its quality standards will not be violated.

(B) The Department of Health and Environmental Control is the agency of state government having jurisdiction over the quality of the air and waters of the State of South Carolina. It shall develop and enforce standards as may be necessary governing emissions or discharges into the air, streams, lakes, or coastal waters of the State, including waste water discharges.

(C) The Department of Health and Environmental Control is the agency of state government having jurisdiction over those matters involving real or potential threats to the health of the people of South Carolina, including the handling and disposal of garbage and refuse; septic tanks; and individual or privately-owned systems for the disposal of offal and human or animal wastes.

61-43 Standards for the Permitting of Agricultural Animal Facilities

Part 50. General Definitions.

For purposes of this regulation, the following definitions apply:

A. "Agricultural animal" means an animal confined in an agricultural facility.

B. "Agricultural facility" means a lot, building, or structure, which is used for the commercial production of animals in an animal facility.

C. “Agronomic rate” is the animal manure and other animal by-products application rate designed: (1) to provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation grown on the land and (2) to minimize the amount of nitrogen in the animal manure that passes below the root zone of the crop or vegetation grown on the land to the groundwater and (3) to provide the amount of other organic and inorganic plant nutrients which promote crop or vegetative growth, such as calcium-carbonate equivalency and (4) to provide the amount of phosphorus needed by the crop or vegetation grown on the land without causing an excessive build up of phosphorus in the soil.

D. “Animal” means any domesticated animal.

E. “Animal by-product” means a secondary or incidental product of animal production that may include bedding, spilled feed, water or soil, milking center washwater, contaminated milk, hair, feathers, dead animals or other debris. This definition may also refer to dead animal or animal manure compost.

F. “Animal facility” means an agricultural facility where animals are confined and fed or maintained for a total of forty-five days or more in a twelve-month period and crops, vegetative, forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Structures used for the storage of animal manure and other animal by-products from animals in the operation also are part of the animal facility. Two or more animal facilities under common ownership or management are considered to be a single animal facility if they are adjacent or utilize a common system for animal manure storage.

G. “Animal Facility Management Plan” means a plan prepared by the United States Department of Agriculture’s Natural Resources Conservation Service or a professional engineer detailing the management, handling, treatment, storage, or utilization of manure generated in an animal facility. This plan shall include facility management details and a detailed map of each manure utilization area showing all buffer zones and setbacks, a description of the land use, the crops grown on the site, the timing for application of swine manure to the land and a land use agreement if the site is not owned by the permittee.

H. “Animal manure” means animal excreta or other commonly associated organic animal manures including, but not limited to, bedding, litter, feed losses, or water mixed with the manure.

I. “Annual animal manure application rate” is the maximum amount of animal manure that can be agronomically applied to a unit area of land during any 365-day period.

J. “Annual constituent loading rate” means the maximum amount of a constituent that can be applied to a unit area of a manure utilization area during any 365-day period.

K. “Average animal live weight” means the sum of the average exit weight of the animal from the facility and the average entry weight divided by two, as shown by the following formula:

$$\text{Average animal live weight} = (\text{Average Exit Weight} + \text{Average Entry Weight})/2$$

L. “Broker” means a person who accepts or purchases dry animal manure from agricultural facilities and transfers this product to a third party for land application.

M. “Closed facility” means an animal facility that has ceased operations (no confined animals at the facility) and is no longer in production.

N. “Commercial Facility” means an animal facility that produces animals or animal by-products for commercial sale, boards animals, rents animals, or provides a service utilizing the animals for a fee. The facility is considered commercial if the owner earned at least one thousand dollars gross farm income in at least three of the first five years.

O. “Compost” is an organic soil conditioner that has been stabilized to a humus-like product, is free of viable human and plant pathogens and plant seeds, does not attract insects or vectors, can be handled and stored without nuisance, and is beneficial to the growth of plants.

P. “Composting” is the biological decomposition and stabilization of organic substrates, under conditions that allow development of thermophilic temperatures as a result of biologically produced heat, to produce a final product that is stable, free of pathogens and plant seeds, and can be beneficially applied to land. Composting requires special conditions of moisture and aeration to produce thermophilic temperatures.

Q. “Constituent limit” is a numerical value that describes the amount of a constituent allowed per unit amount of animal manure (e. g., milligrams per kilogram of total solids); the amount of a constituent that can be applied to a unit area of land (e. g., pounds per acre); or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

R. “Cover crop” is a small grain crop, including, but not limited to, oats, wheat, or barley; grasses; or other crop grown for agronomic use or to maintain topsoil and prevent soil erosion.

S. “Cumulative constituent loading rate” means the maximum amount of a constituent that can be applied to an area of land.

T. “Cumulative impacts” means an increase or enlarging of impact to the environment or community by the successive addition or accumulation of animal facilities in an area.

U. “CWA” means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251et seq. Specific references to sections within the CWA shall be according to Pub. L. 92-500 notation.

V. “Deemed Permitted Facility” means an agricultural animal facility that held a valid permit from the Department for their swine facility prior to July 1, 1996, or for their animal facility prior to June 26, 1998.

W. “Department” means the South Carolina Department of Health and Environmental Control.

X. “Dry manure” means manure, bedding, litter, feed losses, or composted animal material (animal manure or dead animals) that is not in a liquid form. Dry animal manure can normally be easily handled with a shovel or other similar equipment and it can be placed in piles without liquid manure or leachate drainage occurring.

Y. “Dry weight basis” means calculated on the basis of having been dried at 105 degrees Celsius until reaching a constant mass (i.e., essentially 100 percent solids content).

Z. “EPA” means the United States Environmental Protection Agency.

AA. “Ephemeral stream” means a stream that flows only in direct response to rainfall or snowmelt in which discrete periods of flow persist no more than twenty-nine consecutive days per event.

BB. “Excessive Mortality” means total animal mortality in any one 24-hour period that exceeds the design capacity of the normal method of dead animal disposal.

CC. “Expansion” means an increase in the permitted number of animals or normal production live weight at the facility that will result in physical construction at the facility. For facilities with a lagoon, treatment system or manure storage pond, expansion means an increase due to construction

in the maximum capacity of the existing lagoon, treatment system or manure storage pond as determined using the appropriate design standards of the United States Department of Agriculture's Natural Resource Conservation Service. An Animal manure treatment lagoon that is converted to animal manure storage pond is considered an expansion of the facility. For facilities permitted prior to 1998, where the treatment/storage design function was not clearly specified, the Department shall review the facility's operation records and compliance history to determine the current function and condition of the manure handling structures. If the existing structure can handle additional animals, without physical alteration, significant changes in the original function of the structure, or any significant increase in odor, the Department may allow this increase in animals without classifying the change as an expansion.

DD. "FEMA" means the Federal Emergency Management Agency.

EE. "Feed crops" are crops produced primarily for consumption by animals. These include, but are not limited to: corn, grains, and grasses.

FF. "Fiber crops" are crops including, but not limited to, flax and cotton.

GG. "Floodplain" means land adjacent to water bodies that periodically becomes temporarily inundated with water during or after rainfall events. The land inundated from a flood whose peak magnitude would be experienced on an average of once every 100 years is the 100-year floodplain. The 100-year flood has a 1% probability of occurring in one given year.

HH. "Food crops" are crops produced primarily for human consumption. These include, but are not limited to, fruits, vegetables, and tobacco.

II. "Groundwater" is water below the land surface in the saturated zone.

JJ. "Integrator" or "Integrating company" means any entity or person(s) who contracts with agricultural animal producers to grow animals to be supplied to this person(s) at the time of removal from the animal growing houses or facilities and exercises substantial operational control over an animal facility along with the owner/operator of the facility. Substantial operational control includes, but is not limited to, the following: directs the activities of persons working at the animal facility either through a contract, direct supervision, or on-site participation; owns the animals; or specifies how the animals are grown, fed, or medicated. This definition does not include independent producers that contract with other independent producers to accomplish a portion of the animal growing process under contract.

KK. “Intermittent stream” means a stream that generally has a defined natural watercourse, which does not flow year-round but flows beyond periods of rainfall or snowmelt.

LL. “Lagoon” means an impoundment used in conjunction with an animal facility, the primary function of which is to store or stabilize, or both, manure, organic wastes, wastewater, and contaminated runoff.

MM. “Land application” is the spraying or spreading of manure onto the land surface; the injection of manure below the land surface into the root zone; or the incorporation of manure into the soil so that the manure can either condition the soil or fertilize crops or vegetation grown in the soil.

NN. “Large Animal Facility” means an animal facility (excluding swine facilities) that has a capacity for more than 500,000 pounds of normal production animal live weight at any one time.

OO. “Large Swine Facility” means a swine facility with a capacity for greater than 500,000 pounds of normal production animal live weight at any one time.

PP. “Liquid manure” means manure that by its nature, or after being diluted with water, can be pumped easily and which is removed either intermittently or continuously from an animal lagoon, manure storage pond or treated effluent from other types of animal manure treatment systems.

QQ. “Manure” means the fecal and urinary excretion of livestock and poultry. This material may also contain bedding, spilled feed, water or soil. It may also include wastes not associated with livestock excreta, such as milking center washwater, contaminated milk, hair, feathers, or other debris. Manure may be described in different categories as related to solids and moisture content, such as dry manure and liquid manure.

RR. “Manure storage pond” means a structure used for impounding or storing manure, wastewater, and contaminated runoff as a component of an agricultural manure management system. Manure is stored for a specified period of time, one year or less, and then the pond is emptied. This definition does not include tanks or other similar vessels.

SS. “Manure utilization area” means land on which animal manure (including swine manure) is spread as a fertilizer and is synonymous with land application site or land application area.

TT. “mg/l” means milligrams per liter.

UU. “NRCS” is the Natural Resources Conservation Service of the United States Department of Agriculture.

VV. “NRCS-CPS” is the Natural Resources Conservation Service’s Conservation Practice Standards as given in the USDA-NRCS, SC Handbook of Conservation Practices.

WW. “Normal production animal live weight at any one time” means the maximum number of animals at the facility at any one time multiplied by the average animal live weight of those animals.

XX. “Nuisance” means a condition causing danger or annoyance to a limited number of persons or to the general public.

YY. “Pasture” is land on which animals feed directly on feed crops including, but not limited to, legumes, grasses, grain stubble, or stover.

ZZ. “Person” means any individual, public or private corporation, political subdivision, association, partnership, corporation, municipality, State or Federal agency, industry, copartnership, firm, trust, estate, any other legal entity whatsoever, or an agent or employee thereof.

AAA. “Potable water well” means any well designed and/or constructed to produce potable water for consumption by humans or animals.

BBB. “Producer” is a person who grows or confines animals; a person responsible for the manure produced at an animal facility; a person processing manure; and/or a person responsible for the land application of manure.

CCC. “Professional Engineer” or “Engineer” is a person who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering, all as attested by his legal registration as a professional engineer in this State.

DDD. “Range land” is open land with indigenous vegetation.

EEE. “Residence” means a permanent inhabited dwelling, any existing church, school, hospital, or any other structure which is routinely occupied by the same person or persons more than twelve hours per day or by the same person or persons under the age of eighteen for more than two hours per day, except those owned by the applicant.

FFF. "Runoff" is rainwater or other liquid that drains overland on any part of a land surface and runs off of the land surface.

GGG. "Seasonal High Water Table" is the surface between the zone of saturation and the zone of aeration, where the pore water pressure is equal to atmospheric pressure, and which exhibits the shallowest average water depth in relation to the surface during the wettest season.

HHH. "Small Animal Facility" means an animal facility (other than swine) that has a capacity for 500,000 pounds of normal production animal live weight or less at any one time.

III. "Small Swine Facility" means a swine facility with a capacity for 500,000 pounds of normal production animal live weight or less at any one time.

JJJ. "Source Water Protection Area" means an area either above and/or below ground that is the source of water for a public drinking water system via a surface water intake or a water supply well that is designated by the State for increased protection.

KKK. "State" means the State of South Carolina.

LLL. "Swine" means a domesticated animal belonging to the porcine species.

MMM. "Swine by-product" means a secondary or incidental product of swine production that may include bedding, spilled feed, water or soil, milking center washwater, contaminated milk, hair, feathers, dead swine or other debris. This definition may also refer to dead swine or swine manure compost.

NNN. "Swine facility" means an agricultural facility where swine are confined and fed or maintained for a total of forty-five days or more in a twelve-month period and crops, vegetative, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Structures used for the storage of swine manure from swine in the operation also are part of the swine facility. Two or more swine facilities under common ownership or management are considered to be a single swine facility if they are adjacent or utilize a common system for swine manure treatment and/or storage. For any new or expanding swine facility, the combined normal production of all swine facilities owned by the producer, and of all swine facilities owned by corporations having a common majority shareholder in common with the producer, within twenty five miles of the new or expanding facility shall be used to determine the normal production of the new or expanding

facility. For example, when a new facility has a proposed capacity of 300,000 pounds of normal production and the producer owns two other swine facilities within twenty-five miles of the new or expanding swine facility and the normal production of each facility is 400,000 pounds, the proposed swine facility's normal production is 1,100,000 (300,000 v 400,000 v 400,000) pounds.

OOO. "Swine manure" means swine excreta or other commonly associated organic animal manures including, but not limited to, bedding, litter, feed losses, or water mixed with the manure.

PPP. "[mu] g/l" means microgram per liter.

QQQ. "Vector" means a carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and vermin.

RRR. "Wastewater" means any water which during the confinement of animals or the handling, storage, or treatment of manure, dead animals, litter, etc. comes into contact with the animals, manure, litter, spilled feed, etc. Wastewater includes, but is not limited to, wash waters, contaminated milk, and storm water (except storm water runoff from land application areas where the application of manure has been properly applied) that comes into contact with manure.

SSS. "Watershed" means a drainage area contributing to a river, lake, or stream.

TTT. "Waters of the State" means lakes, bays, sounds, ponds, impounding reservoirs, springs, artesian wells, rivers, perennial and navigable streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction. This definition does not include ephemeral or intermittent streams. This definition includes wetlands as defined in this section.

UUU. "Wetlands" means lands that have a predominance of hydric soil, are inundated or saturated by water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and, under normal circumstances, do support a prevalence of hydrophytic vegetation. Normal circumstances refer to the soil and hydrologic conditions that are normally present without regard to whether the vegetation has been removed. Wetlands shall be identified through the confirmation of the three wetlands criteria: hydric soil, hydrology, and hydrophytic vegetation. All

three criteria shall be met for an area to be identified as wetlands. Wetlands generally include swamps, marshes, and bogs.

Part 100—Swine Facilities.

100.50. Permit Application Procedures (Animal Facility Management Plan Submission Requirements).

A. Preliminary Site Evaluations. The Department shall perform a preliminary evaluation of the proposed site at the request of the applicant. Written requests for preliminary site inspection shall be made using a form, as designated by the Department. The Department shall not schedule a preliminary site inspection until all required information specified in the form has been submitted to the Department. This evaluation should be performed prior to preparation of the Animal Facility Management Plan. Once the preliminary site inspection is performed, the Department shall issue an approval or disapproval letter for the proposed site.

B. A producer who proposes to build a new swine facility or expand an existing swine facility shall make application for a permit under this part using an application form as designated by the Department. The following information shall be included in the application package.

1. A completed application form.

2. An Animal Facility Management Plan prepared by qualified Natural Resources Conservation Service personnel or a SC registered professional engineer. Other qualified individuals, such as soil scientists, etc., may prepare the land application component of an Animal Facility Management Plan. The Animal Facility Management Plan shall at a minimum contain:

a. Facility name, address, telephone number, county, and National Pollutant Discharge Elimination System Permit or other permit number (if applicable);

b. Facility location description and the zoning or land use restrictions in this area (this information is available from the county);

c. Applicant's name, address, and telephone number (if different from above);

d. Operator's name;

e. Facility capacity;

- i. Number of swine;
 - ii. Pounds of normal production animal live weight at any one time;
 - iii. Amount in gallons of swine manure generated per year;
 - iv. Description of swine manure storage and storage capacity of lagoon, treatment system, or manure storage pond (if applicable); and
 - v. Description of swine manure and other swine by-products treatment (if any).
- f. Concentration of constituents in swine manure including but not limited to the constituents given below:
- i. Nutrients.
 - (a) Nitrate. (Only needed for aerobic treatment systems)
 - (b) Ammonium-Nitrogen.
 - (c) Total Kjeldahl Nitrogen (TKN).
 - (d) Organic Nitrogen (Organic Nitrogen = TKN - Ammonium Nitrogen)
 - (e) P[2] O[5].
 - (f) K[2]O (potash).
 - ii. Constituents.
 - (a) Copper.
 - (b) Zinc.
 - iii. For new swine facilities, swine manure analysis information does not have to be initially submitted as the Department shall use swine manure analysis from similar sites or published data (such as: Clemson University, American Society of

Agricultural Engineers, Midwest Planning Service Document, NRCS Technical Guide or equivalent) in the review of the application. Analysis of the actual swine manure generated shall be submitted to the Department six months after a new swine facility starts operation or prior to the first application of swine manure to a manure utilization area, whichever occurs first. If this analysis is significantly different from the estimated analysis used in the permitting decision, the Department may require a permit modification as necessary to address the situation. Analysis shall be conducted by a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

g. Swine manure and other swine by-products handling and application information shall be included as follows:

i. A crop management plan which includes the time of year of the swine manure and other swine by-products application and how it relates to crop type, crop planting, and harvesting schedule (if applicable) for all manure utilization areas;

ii. Name, address, and telephone number of the producer(s) that will land apply the swine manure and other swine by-products if different from the permittee;

iii. Type of equipment used to transport and/or spread the swine manure and other swine by-products (if applicable); and

iv. For spray application systems, plans and specifications with supporting details and design calculations for the spray application system.

h. Facility and manure utilization area information shall be included (as appropriate):

i. Name and address of landowner and location of manure utilization area(s);

ii. List previous calendar years that swine manure and other swine by-products were applied and application amounts, where available;

iii. Facility and manure utilization area location(s) on maps drawn to approximate scale including:

(a) Topography (7.58 minutes or equivalent) and drainage characteristics (including ditches);

(b) Adjacent land usage (within 1/4 mile of property line minimum) and location of inhabited dwellings and public places showing property lines and tax map number;

(c) All known water supply wells on the applicant's property and within 500 feet of the facility's footprint of construction or within 200 feet of any manure utilization areas;

(d) Adjacent waters of the State (including ephemeral and intermittent streams) or the nearest waterbody;

(e) Swine manure utilization area boundaries and buffer zones;

(f) Right-of-Ways (Utilities, roads, etc.);

(g) Soil types as given by soil tests or soil maps, a description of soil types, and boring locations (as applicable);

(h) Recorded Plats, Surveys, or other acceptable maps that include property boundaries; and

(i) Information showing the 100-year floodplain as determined by FEMA.

iv. For manure utilization areas not owned by the permit applicant, a signed agreement between the permit applicant and the landowner acceptable to the Department detailing the liability for the land

application. The agreement shall include, at a minimum, the following:

(a) Producer's name, farm name and county in which the farm is located;

(b) Landowner's name, address, phone number;

(c) Location (map with road names and county identified) of the land to receive manure application;

(d) Field acreage, acreage less setbacks, and crops grown;

(e) Name of manure hauler;

(f) Name of manure applier;

(g) A statement that land is not included in any other management plans and manure or compost from another farm is not being applied on this land; and

(h) A signed statement which informs the landowner that he is responsible for spreading and utilizing this manure in accordance with the requirements of the Department and Regulation 61-43.

v. For other manure utilization areas that are included in multiple Animal Facility Management Plans identify the names of all facilities that include this manure utilization area in their plan.

3. Groundwater monitoring well details and proposed groundwater monitoring program (if applicable).

4. The Animal Facility Management Plan shall contain an odor abatement plan for the swine facility, lagoon, treatment system, manure storage pond, and manure utilization areas. For more specific details, see Section 100.150 (Odor Control Requirements).

5. A Vector Abatement Plan shall be included for the swine facility, lagoon, treatment system, manure storage pond, and

manure utilization areas. For more specific details, see Section 100.160 (Vector Control Requirements).

6. Dead Swine Disposal Plan. The plan shall include written details for handling and disposal of dead swine. Plans should include method of disposal, any construction specifications necessary, and management practices. See Section 100.130 for specific requirements on dead swine disposal.

7. Soil Monitoring Plan. A soil monitoring plan shall be developed for all manure utilization areas, see Section 100.100 (Manure Utilization Area Requirements) for more detailed information.

8. Plans and specifications for all other manure treatment or storage structures, such as holding tanks or manure storage sheds.

9. All “Notice of Intent to Build or Expand a Swine Facility” forms as provided by the Department and a tax map (or equivalent) to scale showing all neighboring property owners and identifying which property has inhabited dwellings that are required to be notified. See Section 100.60 (Public Notice Requirements) for more detailed information.

10. An Emergency Plan. The emergency plan shall at a minimum contain a list of entities or agencies the producer shall contact in the event of a structural failure (such as a dike/dam breach), major animal mortality, fire, flood or other similar type problem. For facilities in the coastal areas of the State, the emergency plan shall address actions to be taken by a producer during hurricane season (such as providing additional freeboard during that time) and when advance warning is given on any extreme weather condition.

11. All waivers as specified in Section 100.80 (Facility, Lagoon, Treatment System, and Manure Storage Pond Siting Requirements), if applicable.

12. Application fee and the first year’s operating fee as established by Regulation 61-30.

C. The Department may request an applicant to provide any additional information deemed necessary to complete or correct deficiencies in the swine facility permit application prior to processing the application or issuing, modifying, or denying a permit.

D. Applicants shall submit all required information in a format acceptable to the Department.

E. An application package for a permit is complete when the Department receives all of the required information which has been completed to its satisfaction. Incomplete submittal packages may be returned to the applicant by the Department.

F. Application packages for permit modifications only need to contain the information applicable to the requested modification.

2) S.C. Code Ann. §§ 48-1-10(23), 48-1-30, 90, 100; S.C. Code Regs. § 61-43-200.50

§ 48-1-10. Short title; definitions.

See section 1, above.

§ 48-1-30. Promulgation of regulations; approval of alternatives.

See section 1, above for text.

§ 48-1-90. Causing or permitting pollution of environment prohibited; remedies.

See section 1, above for text.

§ 48-1-100. Permits for discharge of wastes or air contaminants; jurisdiction of department.

See section 1, above for text.

61-43. Standards for the Permitting of Agricultural Animal Facilities

Part 200—Animal facilities (other than swine)

200.50. Permit Application Procedures (Animal Facility Management Plan Submission Requirements).

A. Preliminary Site Evaluations. The Department shall perform a preliminary evaluation of the proposed site at the request of the applicant. Written requests for preliminary site inspection shall be made using a form, as designated by the Department. The Department shall not schedule a preliminary site inspection until all required information specified in the form has been submitted to the Department. This evaluation should be performed prior to preparation of the Animal Facility Management Plan.

Once the preliminary site inspection is performed, the Department shall issue an approval or disapproval letter for the proposed site.

B. A producer who proposes to build a new animal facility or expand an existing animal facility shall make application for a permit under this part using an application form as designated by the Department. The following information shall be included in the application package.

1. A completed application form.

2. An Animal Facility Management Plan prepared by qualified Natural Resources Conservation Service personnel or a SC registered professional engineer. Other qualified individuals, such as soil scientists, etc., may prepare the land application component of an Animal Facility Management Plan. The Animal Facility Management Plan shall at a minimum contain:

a. Facility name, address, telephone number, county, and National Pollutant Discharge Elimination System Permit or other permit number (if applicable);

b. Facility location description and the zoning restrictions in this area (this information is available from the county);

c. Applicant's name, address, and telephone number (if different from above);

d. Operator's name;

e. Facility capacity;

i. Number and type of animals;

ii. Pounds of normal production animal live weight at any one time;

iii. Amount of animal manure and other animal by-products generated per year (gallons for liquid animal manure and pounds for dry animal manure);

iv. Amount in tons of any scraped or separated solid animal manure and other animal by-products generated per year (if applicable);

v. Description of animal manure and other animal by-products storage and storage capacity of lagoon,

treatment system or manure storage pond (if applicable); and

vi. Description of animal manure and other animal by-products treatment (if any).

f. Concentration of constituents in liquid animal manure including but not limited to the constituents given below:

i. Nutrients.

(a) Nitrate (only needed for aerobic systems).

(b) Ammonium-Nitrogen.

(c) Total Kjeldahl Nitrogen (TKN).

(d) Organic-Nitrogen (TKN - Ammonium-Nitrogen).

(e) P₂O₅.

(f) K₂O (potash).

ii. Constituents.

(a) Arsenic.

(b) Copper.

(c) Zinc.

iii. Name, address, SC lab certification number, and telephone number of the laboratory conducting the analyses.

iv. For new animal facilities, liquid animal manure analysis information does not have to be submitted as the Department shall use manure analyses from similar sites or published data (such as: Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document, NRCS Technical Guide or equivalent) in review of the application. Analysis of the actual animal manure generated shall be submitted to the

Department twelve months after a new animal facility starts operation or prior to the first application of animal manure to a manure utilization area, whichever occurs first. If this analysis is significantly different from the estimated analysis used in the permitting decision, the Department may require a permit modification as necessary to address the situation. Analysis shall be conducted by a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

g. Concentration of constituents in dry animal manure including but not limited to the following:

i. Nutrients (on a dry weight basis).

(a) Total Kjeldahl Nitrogen (mg/kg).

(b) Total inorganic nitrogen (mg/kg).

(c) Total ammonia nitrogen (mg/kg) and Total nitrate, nitrogen (mg/kg).

(d) P₂O₅ (mg/kg).

(e) K₂O (mg/kg).

(f) Calcium Carbonate equivalency (if animal manure is alkaline stabilized).

ii. Constituents (on a dry weight basis).

(a) Arsenic (mg/kg).

(b) Copper (mg/kg).

(c) Zinc (mg/kg).

iii. Name, address, SC lab certification number, and telephone number of the laboratory conducting the analyses.

iv. For new animal facilities, dry animal manure analysis information does not have to be submitted

as the Department shall use manure analyses from similar sites or published data (such as: Clemson University, American Society of Agricultural Engineers, Midwest Planning Service Document, NRCS Technical Guide or equivalent) in review of the application. Analysis of the actual dry animal manure generated shall be submitted to the Department twelve months after a new animal facility starts operation or prior to the first application of animal manure to a manure utilization area which ever occurs first. If this analysis is significantly different from the estimated analysis used in the permitting decision, the Department may require a permit modification as necessary to address the situation. Analysis shall be conducted by a laboratory certified by the Department. This laboratory shall have and maintain certification for the constituents to be analyzed.

h. Animal manure and other animal by-products handling and application information shall be included as follows:

i. A crop management plan which includes the time of year of the animal manure application and how it relates to crop type, crop planting, and harvesting schedule (if applicable) for all manure utilization areas;

ii. Name, address, and telephone number of the producer(s) that will land apply the animal manure and other animal by-products if different from the permittee;

iii. Type of equipment used to transport and/or spread the animal manure and other animal by-products (if applicable); and

iv. For spray application systems, plans and specifications with supporting details and design calculations for the spray application system.

i. Facility and manure utilization area information shall be included (as appropriate):

i. Name and address of landowner and location of manure utilization area(s);

ii. List previous calendar years that animal manure was applied and application amounts, where available;

iii. Facility and manure utilization area location(s) on maps drawn to approximate scale including:

(a) Topography (7.58 or equivalent) and drainage characteristics (including ditches);

(b) Adjacent land usage (within 1/4 mile of property line minimum) and location of inhabited dwellings and public places showing property lines and tax map number;

(c) All known water supply wells on applicant's property and within 200 feet of the facility's property line or within 200 feet of any manure utilization areas;

(d) Adjacent surface water bodies (including ephemeral and intermittent streams);

(e) Animal manure utilization area boundaries and buffer zones;

(f) Right-of-Ways (Utilities, roads, etc.);

(g) Soil types as given by soil tests or soils maps, a description of soil types, and boring locations (if applicable);

(h) Recorded Plats, Surveys, or other acceptable maps that include property boundaries; and

(i) Information showing the 100-year floodplain (as determined by FEMA).

vi. For manure utilization areas not owned by the permit applicant, a signed agreement between the permit applicant and the landowner acceptable to the Department detailing the liability for the land

application. The agreement shall include, at a minimum, the following:

(a) Producer's name, farm name and county in which the farm is located;

(b) Landowner's name, address, phone number;

(c) Location (map with road names and county identified) of the land to receive manure application;

(d) Field acreage, acreage less setbacks, and crops grown;

(e) Name of manure hauler;

(f) Name of manure applier;

(g) A statement that land is not included in any other management plans and manure or compost from another farm is not being applied on this land; and

(h) A signed statement which informs the landowner that he is responsible for spreading and utilizing this manure in accordance with the requirements of the Department and Regulation 61-43.

v. For other manure utilization areas that are included in multiple Animal Facility Management Plans, identify the names of all facilities that include this manure utilization area in their plan.

3. Groundwater monitoring well details and proposed groundwater monitoring program (if applicable).

4. The Animal Facility Management Plan shall contain an odor abatement plan for the animal facility, lagoon, treatment system, manure storage pond, and manure utilization areas. For more specific details, see Section 200.150 (Odor Control Requirements).

5. A Vector Abatement Plan shall be included for the animal facility, lagoon, treatment system or manure storage pond, and

manure utilization areas. For more specific details see Section 200.160 (Vector Control Requirements).

6. Dead Animal Disposal Plan. The plan shall include written details for handling and disposal of dead animals. Plans should detail method of disposal, any construction specifications necessary, and management practices. See Section 200.130 (Dead Animal Disposal Requirements) for specific requirements on dead animal disposal.

7. Soil Monitoring Plan. A soil monitoring plan shall be developed for all manure utilization areas. See Section 200.100 (Manure Utilization Area Requirements) for more detailed information.

8. Plans and specifications for all other manure treatment or storage structures, such as holding tanks or manure storage sheds.

9. All “Notice of Intent to Build or Expand an Animal Facility” forms as provided by the Department and a tax map (or equivalent) to scale showing all neighboring property owners and identifying which property has inhabited dwellings. See Section 200.60 (Public Notice Requirements) for more detailed information.

10. An Emergency Plan. The emergency plan should at a minimum contain a list of entities or agencies the producer should contact in the event of lagoon, treatment system, or manure storage pond breach, major animal mortality, fire, flood or other similar type problem. For facilities in the coastal areas of the state, the emergency plan should address actions to be taken by a producer when advance warning is given on any extreme weather condition.

11. Adjoining property owners written agreement for reduction of setbacks (if applicable).

12. Application fee and first year’s operating fee as established by Regulation 61-30.

C. The Department may request an applicant to provide any additional information deemed necessary to complete or correct deficiencies in the animal facility permit application prior to processing the application or issuing, modifying, or denying a permit.

D. Applicants shall submit all required information in a format acceptable to the Department.

E. An application package for a permit is complete when the Department receives all of the required information which has been completed to its satisfaction. Incomplete submittal packages may be returned to the applicant by the Department.

F. Application packages for permit modifications only need to contain the information applicable to the requested modification.

3) S.C. Code Ann. §§ 48-1-30, 90, 100; S.C. Code Regs. § 61-43-400.40

§ 48-1-30. Promulgation of regulations; approval of alternatives.

See text in section 1, above.

§ 48-1-90. Causing or permitting pollution of environment prohibited; remedies.

See text in section 1, above.

§ 48-1-100. Permits for discharge of wastes or air contaminants; jurisdiction of department.

See text in section 1, above.

61-43. Standards for the Permitting of Agricultural Animal Facilities.

Part 400—Manure Broker Operations.

400.40. Permit Application Procedures (Broker Management Plan Submission Requirements).

A. A broker who proposes to operate a dry animal manure brokering operation or expand an existing operation shall make application for a permit under this part using an application form as designated by the Department. The following information shall be included in the application package.

1. A completed application form.
2. A Broker Management Plan prepared by qualified Natural Resources Conservation Service personnel, a SC registered professional engineer, or other qualified individuals, such as soil scientists. The Comprehensive Nutrient Management Plan shall at a minimum contain:

a. Brokering Operation name, address, telephone number, county, and permit number (if applicable);

b. Applicant's name, address, and telephone number (if different from above);

c. Broker's name;

d. Dry Animal manure and other animal by-products Storage or Treatment Facility Information (if applicable):

i. Description of animal manure and other animal by-products storage and storage capacity;

ii. Description of animal manure and other animal by-products treatment (if any);

iii. Facility location description and the zoning or land use restrictions in this area (this information should be obtained from the county). Facility shall meet the siting requirements outlined in Section 200.80.C of this regulation;

e. Animal manure and other animal by-products handling and application information shall be included as follows:

i. A general crop management plan which includes the optimum time of year of the animal manure and other animal by-products application and how it relates to crop type, crop planting, and harvesting schedule (if applicable) in general for manure utilization areas in the State. This information should be used as a guide in the absence of more accurate information. The Plan Preparer may need to include this information for the different regional areas of The State, as necessary, to provide the broker with general crop information for the entire State;

ii. Type of equipment used to transport and/or spread the animal manure and other animal by-products (if applicable);

iii. Description of services provided by the broker (clean-out houses, transport manure and other

animal by-products, drop-off only, land application, incorporation of manure and other animal by-products into field, stacking or storing manure and other animal by-products, manure and other animal by-products treatment, etc.);

iv. Example of the contract or letter of intent to buy or accept animal manure and other animal by-products between the broker and the producer who is supplying the animal manure and other animal by-products; and

v. Example of the manure transfer contract to be used for the transfer of animal manure and other animal by-products between the broker and the person(s) who is accepting or purchasing the animal manure and other animal by-products. The Department has developed a Manure transfer contract that can be used or the broker may develop his own contract as long as it contains the minimum information outlined in part 400.60.B.12.

3. The Broker Management Plan shall contain an odor abatement plan for the dry animal manure and other animal by-products storage or treatment facility or manure utilization areas, as appropriate.

4. A Vector Abatement Plan shall be developed for the dry animal manure and other animal by-products storage or treatment facility or land application areas, (if applicable).

5. Soil Monitoring Plan. A soil monitoring plan shall be developed for all broker operations.

6. Plans and specifications for the construction and operation of all manure and other animal by-products treatment or storage structures, such as composters or manure storage sheds that are to be owned and operated by the brokering operation.

7. Adjoining property owners written agreement for reduction of setbacks for any manure storage and/or treatment facilities (if applicable).

8. Application fee and first year's operating fee as established by Regulation 61-30.

B. The Department may request an applicant to provide any additional information deemed necessary to complete or correct deficiencies in the broker operation permit application prior to processing the application or issuing, modifying, or denying a permit.

C. Applicants shall submit all required information in a format acceptable to the Department.

D. Incomplete submittal packages may be returned to the applicant by the Department. An application package for a permit is complete when the Department receives all of the required information, which has been completed to its satisfaction.

E. Application packages for permit modifications only need to contain the information applicable to the requested modification.