

15A NCAC 02D .1802 CONTROL OF ODORS FROM ANIMAL OPERATIONS USING LIQUID ANIMAL WASTE MANAGEMENT SYSTEMS

(a) Purpose. The purpose of this Rule is to control objectionable odors from animal operations beyond the boundaries of animal operations.

(b) Applicability. This Rule shall apply to all animal operations.

(c) Required management practices. All animal operations shall be required to implement applicable management practices for the control of odors as follows:

- (1) The carcasses of dead animals shall be disposed of within 24 hours after becoming aware of the death of the animal according to the methods approved by the State Veterinarian for disposal of dead domesticated animals under G.S. 106-403;
- (2) Waste from animal wastewater application spray systems shall be applied in such a manner and under such conditions to prevent drift from the irrigation field of the wastewater spray beyond the boundary of the animal operation, except waste from application spray systems may be applied in an emergency to maintain safe lagoon freeboard if the owner or operator notifies the Department and resolves the emergency with the Department as written in Section III.6 of the Swine Waste Operation General Permit;
- (3) Animal wastewater application spray system intakes shall be located near the liquid surface of the animal wastewater lagoon;
- (4) Ventilation fans shall be maintained according to the manufacturer=s specifications; and
- (5) Animal feed storage containers located outside of animal containment buildings shall be covered except when necessary to remove or add feed; this Subparagraph does not apply to the storage of silage or hay or to commodity boxes with roofs; and

All animal operations shall be in compliance with this Paragraph by June 1, 1999.

(d) Odor management plan for existing animal operations for swine. Animal operations for swine that meet the criteria in the table in this Paragraph shall submit an odor management plan to the Director according to the schedule in the table in this Paragraph. The odor management plan shall describe how odors are currently being controlled and how these odors will be controlled in the future. The odor management plan shall contain the elements described in Rule .1803(a) of this Section. The animal operation shall be required to submit its odor management plan only once.

100 pounds steady state live weight of swine		Distance in feet to the boundary of the nearest neighboring occupied property with an inhabitable structure, business, school, hospital, church, outdoor recreational facility, national park, State Park, historic property, or child care center	Date by when the odor management plan is to be submitted
at least	but less than		
10,000	20,000	less than or equal to 3,000	January 15, 2002
20,000	40,000	less than or equal to 4,000	July 15, 2001
40,000		less than or equal to 5,000	January 15, 2001

For the purposes of this Rule, the distance shall be measured from the edge of the barn or lagoon, whichever is closer, to the boundary of the neighboring occupied property with an inhabitable structure, business, school, hospital, church, outdoor recreational facility, national park, State Park, historic property, or child care center. All animal operations for swine that are of the size in the table in this Paragraph shall submit by the date specified in this table either an odor management plan or documentation that no neighboring occupied property with an inhabitable structure, business, school, hospital, church, outdoor recreational facility, national park, State Park, historic property, or child care center is within the distances specified in the table as of the date that the submittal is due. After July 15, 2002, the Director may require existing animal operations for swine with a steady state live weight of swine between 1,000 to 10,000 hundredweights to submit an odor management plan if the Director determines that these animal operations may cause or contribute to an objectionable odor. The Director may require an existing animal operation to submit a best management plan under Paragraph (h) of this Rule if the existing animal operation fails to submit an odor management plan by the schedule in this Paragraph of this Rule.

(e) Location of objectionable odor determinations.

- (1) For an existing animal operation that does not meet the following siting requirements:
 - (A) at least 1500 feet from any occupied residence not owned by the owner of the animal operation;

(B) at least 2500 feet from any school, hospital, church, outdoor recreation facility, national park; State Park, historic property, or child care center; and

(C) at least 500 feet from any property boundary;

objectionable odors shall be determined at neighboring occupied property not owned by the owner of the animal operation, businesses, schools, hospitals, churches, outdoor recreation facilities, national parks, State Parks, historic properties, or child care centers that are affected.

(2) For a new animal operation or existing animal operation that meets the siting requirements in Subparagraph (1) of this Paragraph, objectionable odors shall be determined beyond the boundary of the animal operation.

(f) Complaints. The Director shall respond to complaints about objectionable odors from animal operations as follows:

(1) Complaints shall be investigated to the extent practicable.

(2) Complaints may be used to assist in determination of a best management plan failure or a control technology failure.

(3) The Director shall respond to complaints within 30 days.

(4) Complaint response shall at least include a written response of the Director's evaluation of the complaint.

(5) The investigation of a complaint shall be completed as expeditiously as possible considering the meteorology, activities at the animal operation, and other conditions occurring at the time of the complain.

(g) Determination of the existence of an objectionable odor. In deciding if an animal operation is causing or contributing to an objectionable odor, the Director may consider one or more of the following:

(1) the nature, intensity, frequency, pervasiveness, and duration of the odors from the animal operation;

(2) complaints received about objectionable odors from the animal operation;

(3) emissions from the animal operation of known odor causing compounds, such as ammonia, total volatile organics, hydrogen sulfide or other sulfur compounds at levels that could cause or contribute to an objectionable odor;

(4) any epidemiological studies associating health problems with odors from the animal operation or documented health problems associated with odors from the animal operation provided by the State Health Director; or

(5) any other evidence, including records maintained by neighbors, that show that the animal operation is causing or contributing to an objectionable odor.

(h) Requirement for a best management plan for controlling odors from existing animal operations. If the Director finds that an existing animal operation is causing or contributing to an objectionable odor, the owner or operator of the animal operation shall:

(1) submit to the Director as soon as practical, but not to exceed 90 days after receipt of written notification from the Director that the animal operation is causing or contributing to an objectionable odor, a best management plan for odor control as described in Rule .1803 of this Section; and

(2) be in compliance with the terms of the plan within 30 days after the Director approves the best management plan (compliance with an approved compliance schedule in the best management plan is deemed to be in compliance with the plan).

(i) Requirement for amendment to best management plan. No later than 60 days from completion of a compliance schedule in an approved best management plan or if the best management plan contains no compliance schedule, no later than 60 days from the implementation date of the best management plan, the Director shall determine whether the plan has been properly implemented. If the Director determines that a plan submitted under Paragraph (h) of this Rule does not control objectionable odors from the animal operation, the Director shall require the owner or operator of the animal operation to amend the plan to incorporate additional or alternative measures to control objectionable odors from the animal operation. The owner or operator shall:

(1) submit a revised best management plan to the Director as soon as practical but not later than 60 days after receipt of written notification from the Director that the plan is inadequate; and

(2) be in compliance with the revised plan within 30 days after the Director approves the revisions to the best management plan (compliance with an approved compliance schedule in the best management plan is deemed to be in compliance with the plan).

(j) Plan failure. Any of the following conditions shall constitute failure of a best management plan:

- (1) failing to submit the initial best management plan required under Paragraph (h) of this Rule within 90 days of receipt of written notification from the Director that the animal operation is causing or contributing to an objectionable odor;
- (2) failing to submit a revised best management plan required under Paragraph (i) of this Rule within 60 days of receipt of written notification from the Director that the animal operation is causing or contributing to an objectionable odor;
- (3) failing to correct all deficiencies in a submitted best management plan under Rule .1803(c) of this Section within 30 days of receipt of written notification from the Director to correct these deficiencies;
- (4) failing to implement the best management plan after it has been approved; or
- (5) finding by the Director, using the criteria under Paragraph (g) of this Rule, that, after the best management plan has been implemented and revised no more than one time (voluntary revisions and revisions made pursuant to 15A NCAC 2D .1803(c) shall not be counted as revisions under this Subparagraph); the best management plan does not adequately control objectionable odors from the animal operation and will not adequately control objectionable odors even with further amendments.

(k) Requirements for control technology. If a plan failure occurs, the Director shall require the owner or operator of the animal operation to install control technology to control odor from the animal operation. The owner or operator shall submit within 90 days from receipt of written notification from the Director of a plan failure, a permit application for control technology and an installation schedule. If the owner or operator demonstrates to the Director that a permit application cannot be submitted within 90 days, the Director may extend the time for submittal up to an additional 90 days. Control technology shall be determined according to Subparagraph (1) of this Paragraph. The installation schedule shall contain the increments of progress described in Subparagraph (2) of this Paragraph. The owner or operator may at any time request adjustments in the installation schedule and shall in his request explain why the schedule cannot be met. If the Director finds that the reason for not meeting the schedule is valid, the Director shall revise the installation schedule as requested; however, the Director shall not extend the final compliance date beyond 24 months from the date that the permit was first issued for the control technology. The owner or operator shall certify to the Director within five days after the deadline for each increment of progress described in Subparagraph (2) of this Paragraph whether the required increment of progress has been met.

- (1) Control technology. The owner or operator of an animal operation shall identify control technologies that are technologically feasible for his animal operation and shall select the control technology or control technologies that results in the greatest reduction of odors considering human health, energy, environmental, and economic impacts and other costs. The owner or operator shall explain the reasons for selecting the control technology or control technologies. If the Director finds that the selected control technology or control technologies will effectively control odors following the procedures in 15A NCAC 2Q .0300 or .0500, he shall approve the installation of the control technology or control technologies for this animal operation. The owner or operator of the animal operation shall comply with all terms and conditions in the permit.
- (2) Installation schedule. The installation schedule for control technology shall contain the following increments of progress:
 - (A) a date by which contracts for odor control technology shall be awarded or orders shall be issued for purchase of component parts;
 - (B) a date by which on-site construction or installation of the odor control technology shall begin;
 - (C) a date by which on-site construction or installation of the odor control technology shall be completed; and
 - (D) a date by which final compliance shall be achieved.
 Control technology shall be in place and operating as soon as practical but not to exceed 12 months from the date that the permit is issued for control technology.

(l) New or modified animal operations. This Paragraph does not apply to activities exempted from the moratorium on construction or expansion of swine farms in S.L. 1997, c. 458, s. 1.1 provided that the owner or operator demonstrates to the Director that the activity will not result in an objectionable odor.

- (1) Before beginning construction, the owner or operator of a new or modified animal operation raising or producing swine shall submit and have an approved best management plan and shall meet the following: A house or lagoon that is a component of an animal operation shall be constructed:
 - (A) at least 1500 feet from any occupied residence not owned by the owner of the animal operation;

- (B) at least 2500 feet from any school, hospital, church, outdoor recreation facility, national park, State Park, historic property, or child care center; and
- (C) at least 500 feet from any property boundary;
- (2) Before beginning construction, the owner or operator of a new or modified animal operation other than swine shall submit and have an approved best management plan.
- (3) For new or modified animal operations raising or producing swine, the outer perimeter of the land area onto which waste is applied that is a component of an animal operation shall be:
 - (A) at least 75 feet from any boundary of property on which an occupied residence not owned by the owner of the animal operation is located, and
 - (B) at least 200 feet from any occupied residence not owned by the owner of the animal operation.
- (4) The Director shall either approve or disapprove the best management plan submitted under this Paragraph within 90 days after receipt of the plan. If the Director disapproves the plan, he shall identify the plan's deficiency.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(11); 143-215.108(a);
Temporary Adoption Eff. April 27, 1999; March 1, 1999;
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