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New Compliance Requirements for SC DHEC Stormwater Permits for Confined Agricultural Animal Facilities

S.C. Regulation 72-300 et seq. and the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges from Large and Small Construction Activities (SCR100000) states the following:

“After the effective date of these regulations (September 1, 2006), unless a particular activity is exempted by these regulations, a person may not undertake a land disturbing activity without an approved stormwater management and sediment control plan from the appropriate plan approval agency.”

- **Why is the Construction or Expansion of a Confined Agricultural Animal Facility required to obtain a Stormwater Permit?**

Construction activity is defined as clearing, grading, and excavating that result in land disturbance. After the Federal stormwater regulations changed in 2006, S.C. Department of Health and Environmental Control (DHEC) was required to implement new stormwater construction requirements in South Carolina. Previously, confined agricultural animal facilities were exempt from obtaining construction stormwater permits, due to the size of most agricultural facilities. However, now the state and federal requirements apply to all construction sites disturbing one (1) or more acres. This includes nearly all construction of new and expanding agricultural animal facilities in South Carolina. DHEC allowed a generous grace period since the issuance of these changes for the industry to prepare and adjust to these changes. However, DHEC will now be enforcing the construction stormwater requirements on all new and expanding facilities.

- **How do I obtain a Construction Stormwater Approval from DHEC?**

State and Federal regulations require that you, the Owner, submit a Notice of Intent (NOI—application form) and a Stormwater Pollution Prevention Plan (SWPPP) to DHEC for review. After the NOI and SWPPP have been processed and reviewed, a construction stormwater approval will be issued. Under current State and Federal regulations, this approval must be granted (in addition to the Agricultural Permit, which is separate) prior to the initiation of grading and construction activities on your site. Construction activities include clearing, grading, and excavating that result in land disturbance. For more information go to the Stormwater Program website: <http://www.scdhec.gov/stormwater>

- **Where do I submit the Application Package?**

In many parts of the state, DHEC is responsible for the technical review of the Stormwater Pollution Prevention Plan (SWPPP). However, some counties and cities are authorized to perform the technical review instead of DHEC. A list of the local entities performing this review can be found at <http://www.scdhec.gov/environment/water/docs/swms4transition.pdf>. After the local entity completes their review, they forward their approval to DHEC to issue coverage under the NPDES General Permit for Storm Water Discharges from Large and Small Construction Activities.

- **What does it cost to get a Stormwater permit?**

DHEC charges a review fee of \$100 per disturbed acre (not to exceed \$2000) for projects they review. In addition to that fee, the NPDES General Permit fee of \$125 applies. The above-outlined fees must be submitted to DHEC with the NOI and SWPPP for a Stormwater Approval. When one of the local entities performs the stormwater review, only the \$125 fee will be required when the approval is forwarded to DHEC. However, the local entity may also require fees for their review. In addition to this cost, there may be fees associated with preparation of a SWPPP by a qualified consultant.

- **What is a Stormwater Pollution Prevention Plan (SWPPP)?**

The SWPPP outlines the requirements for compliance with the state and federal stormwater regulations. The plan should include specifications for erosion control practices that will be utilized on your construction site in order to prevent loss of sediment. In addition, the plan should include a map outlining the proper placement of these controls. The plan also includes all of the recordkeeping, inspection, maintenance, and reporting requirements that must be followed during the construction of the facility.

- **Where can I get a SWPPP?**

A SWPPP may be developed by registered professional engineers, registered landscape architects, Tier B surveyors, or federal government employees (such as NRCS). In most cases, the applicant will have the same individual who prepared their plans for the Agricultural Permit prepare the SWPPP.

- **How long will it take to get my Construction Stormwater Approval?**

After the NOI, fees, and the SWPPP are submitted to DHEC, the review time is approximately twenty (20) calendar days.

- **What will happen if I initiate grading or construction activities without a Construction Stormwater Approval?**

Stormwater approval is required by state and federal regulations and must be obtained prior to the initiation of grading or construction activities in order for these activities to be in compliance with State and Federal regulations. DHEC will require all land disturbance activities be halted until the Stormwater Approval has been obtained, and the owner will be subject to enforcement action and possible monetary penalties.

- **What is required under the Construction Stormwater Approval?**

You, the owner, will be required to ensure that the SWPPP approved by DHEC is provided to the individuals performing grading and construction activities on your site. You will also be responsible for ensuring that the SWPPP is implemented on the site. In addition, you will be responsible for ensuring that the required site inspections are conducted in accordance with the selected inspection schedule until the site is stabilized. The SWPPP also includes a signature page, which should be signed by all of the contractors working on your site prior to starting work.

- **Who can perform the Required Site Inspections?**

DHEC requires that the site be inspected at least once every seven (7) calendar days or at least once every fourteen calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater by qualified personnel. The inspection frequency may be reduced to one time per month if the entire site is temporarily stabilized. Qualified inspection personnel include the following: the SWPPP preparer, an employee of the SWPPP preparer, a certified inspector (certified through the Clemson CEPSCI program), a person with registration equivalent to the SWPPP preparer, or an employee of the person with registration equivalent to the SWPPP preparer. A written report of the inspection should be maintained with the plans. Inspections of the site must be performed until the site reaches final stabilization.

- **What do I do when construction is complete?**

After construction is complete, the site must be stabilized with a sufficient stand of vegetation. Once the site has at least 70% vegetative cover on 100% of the site, the owner must submit a Notice of Termination form to DHEC to certify that the project is complete and the site is stabilized. The SWPPP preparer is also required to sign this form certifying that the site is appropriately stabilized.