

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
Air Quality Control Commission

REGULATION NUMBER 2

ODOR EMISSION

5 CCR 1001-4

PART B HOUSED COMMERCIAL SWINE FEEDING OPERATIONS

I. Applicability

The provisions of Regulation Number 2, Part B shall apply statewide, to new, expanded, and existing housed commercial swine feeding operations, with the following exception. ~~This Part B of Regulation Number 2 is intended to work in conjunction with Section 61.13 of the Water Quality Control Commission's Colorado Discharge Permit System Regulations Number 61.~~

II. Definitions

The following terms are defined specifically for this Part B of Regulation Number 2. ~~For any terms not defined in this Part B of Regulation Number 2, the definitions in the Colorado Air Pollution Prevention and Control Act ([State Act](#), Sections 25-7-101, C.R.S., et seq.) and [the](#) Commission's Common Provisions (5 C.C.R. 1001-2) shall apply.~~

II.A. Aerobic

Means a waste treatment method that utilizes air or oxygen.

II.B. Anaerobic

Means a waste treatment method that, in whole or in part, does not utilize air or oxygen.

II.C. Applicable Requirements

Means all of the following as they apply to emissions units in a housed commercial swine feeding operation:

- II.C.1. any term or condition of any permit to operate issued pursuant to this Part B of Regulation Number 2;
- II.C.2. any standard or other requirement provided for in this Part B of Regulation Number 2; and
- II.C.3. any standard or other requirement provided for in the State Act or Commission regulations that apply to housed commercial swine feeding operations.

II.D. Aquifer

Means a formation, group of formations, or part of a formation containing sufficient saturated permeable material that could yield a sufficient quantity of water that may be extracted and applied to a beneficial use.

II.E. Capable of Housing

Means the combined maximum capacities of the housing units that are included in the housed commercial swine feeding operation. ~~Unless the owner of the housed commercial swine feeding operation provides information about the specific operation to the Division, which demonstrates that an alternative capacity calculation is appropriate for that housed commercial swine feeding operation, operations will be presumed capable of housing eight hundred thousand (800,000) pounds or more of live animal weight if they have the capacity to house:~~

II.E.1. 11,500 weaning swine (70 pounds or less);

II.E.2. 3,020 swine (70 pounds up to finish weight);

II.E.3. 2,000 breeding sows and/or boars; and

where more than one of the above-listed categories of swine of varying sizes are present, housed commercial swine feeding operations will be deemed capable of housing ~~eight hundred thousand (800,000)~~ pounds or more of live animal weight if, by dividing the capacity for the number of each type of swine by the respective limit from Sections II.E.1., II.E.2., and/or II.E.3., Part B, of this Regulation Number 2, above, the sum of the resulting numbers is one ~~(1)~~ or greater.

II.F. Common or Affiliated Ownership or Management

Means:

II.F.1. housed commercial swine feeding operations owned by the same entity;

II.F.2. housed commercial swine feeding operations owned by entities related through majority ownership; or

II.F.3. housed commercial swine feeding operations with structural, organizational, or contractual relationships that evidence actual or effective control of the management of the aspects of a housed commercial swine feeding operation related to swine production or swine waste process wastewater conveyance, storage, treatment, or land application systems.

II.G. Cover

Means a man-made, man-applied, or man-operated device, technology, or material that encompasses the entire surface area of a process wastewater vessel or waste impoundment so as to capture, recover, incinerate or otherwise manage odorous gases to minimize, to the greatest extent practicable, the emissions of such gases into the atmosphere.

II.H. Division

Means for purposes of Regulation Number 2, Part B, the Division of ~~Administration~~
~~Environmental Health and Sustainability's Environmental Agriculture Program~~ of the Colorado
Department of Public Health and Environment.

II.I. Existing Source

Means any housed commercial swine feeding operation that has commenced construction prior
to or on March 30, 1999.

II.J. Housed Commercial Swine Feeding Operation

Means a housed swine feeding operation that is capable of housing ~~eight hundred thousand~~
~~(800,000)~~ pounds or more of live animal weight of swine at any one time or is deemed a
commercial operation under local zoning or land use regulations.

Two or more housed swine ~~confined~~ feeding operations shall be considered to comprise a single
housed commercial swine feeding operation if they are both:

II.J.1. under common or affiliated ownership or management, and

II.J.1.a. are adjacent to or utilize a common area or system for manure
disposal; or

II.J.1.b. are integrated in any way; or

II.J.1.c. are located or discharge within the same watershed or into
watersheds that are hydrologically connected; or

II.J.1.d. are located on or discharge onto land overlying the same
ground water aquifer.

II.K. Housed Swine Feeding Operation

Means the practice of raising swine in buildings, or other enclosed structures wherein swine of
any size are fed for ~~forty-five (45)~~ days or longer in any ~~twelve (12)~~ month period, and crop or
forage growth or production is not sustained in the area of confinement.

II.L. Integrated in Any Way

Means separate operations that are related in a manner that creates a reasonable potential for
the operations to result in a measurable cumulative impact on water quality or air quality at any
one location.

II.M. Land Application

Means any process wastewater or manure being applied directly to the land for land disposal,
land treatment, or irrigation and does not include the discharge to surface waters or loading of

process wastewater vessels or waste impoundments even if such waters are subsequently diverted and applied to the land.

II.N. Manure

Means feces, urine, litter, bedding, or feed waste from housed commercial swine feeding operations.

II.O. New Source

Means any housed commercial swine feeding operation that has not commenced construction prior to or on March 30, 1999.

II.P. Open Animal Feeding Operation

Means pens or similar confinement areas with dirt, concrete, or other paved or hard surfaces wherein swine are substantially or entirely exposed to the outside environment and are located at a housed commercial swine feeding operation. ~~For the purposes of Part B of this Regulation Number 2, the term open animal feeding operation is synonymous with the terms yard, pasture lot, dirt lot, and dry lot, for swine, as these terms are commonly used in the agricultural industry.~~

II.Q. Permit to Operate

Means the same as a "construction permit" or "emission permit", and is the permit required under Section 25-7-114.2, C.R.S.

II.R. Process Wastewater Vessel

Means a facility or part of a housed commercial swine feeding operation, other than a waste impoundment, which is used for the storage, treatment, evaporation or discharge of pollutant-containing wastewater, swine feeding process wastewater, waste solids, sludge, or associated sediment from a housed commercial swine feeding operation.

II.S. Receptor

Means any occupied dwelling used as a primary dwelling or its curtilage, a public or private school, or a place of business.

II.T. Swine Feeding Process Wastewater

Means any process-generated wastewater used in a housed commercial swine feeding operation, including water used for feeding, flushing, or washing, and any water or precipitation that comes into contact with any manure, urine, or any product used in or resulting from the production of swine. ~~As used in this Part B of Regulation Number 2, "process wastewater" shall mean "swine feeding process wastewater."~~

II.U. Utilizes Air or Oxygen

Means a waste treatment method that utilizes air or oxygen at a minimum at one ~~(1)~~ part per million of dissolved oxygen throughout the liquid column of the impoundment or a waste treatment method that is designed to meet the oxygen demand of the waste loading.

II.V. Waste Impoundment

Also termed "impoundment", means a facility or part of a housed commercial swine feeding operation which is a natural topographic depression, man-made excavation, or diked area formed of man-made or earthen materials, which is used for the storage, treatment, evaporation or discharge of pollutant-containing wastewater, waste solids, sludge, or associated sediment from a housed commercial swine feeding operation.

II.W. Watershed

Means a hydrologic unit no larger than an eight ~~(8)~~ digit unit as displayed on the U.S. Geologic Survey 1974 Hydrologic Unit Map for the State of Colorado. ~~—~~ The phrase "watersheds that are hydrologically connected" shall mean watersheds that are contiguous and tributary to the same four-digit unit. ~~—~~ Provided, that two ~~(2)~~ or more housed commercial swine feeding operations shall not be considered to be located in the same watershed or in watersheds that are hydrologically connected if the owner or operator demonstrates that there is no reasonable potential for the operations to result in a cumulative impact on water quality at any one ~~(1)~~ location.

II.X. Working Capacity

Means the number of weaned swine that the housed commercial swine feeding operation is capable of housing at one time.

III. Odor Standards for Housed Commercial Swine Feeding Operations

III.A. Odor Concentration Standard at Property Boundary

III.A.1. All housed commercial swine feeding operations shall manage odor emissions from all aspects of the operations such that odor emissions from the operations shall not be detected at or beyond the property boundary after the odorous air has been diluted with seven ~~(7)~~ or more volumes of odor free air.

III.A.2. For the purposes of this Part B of Regulation Number 2, two ~~(2)~~ odor measurements shall be made within a period of one ~~(1)~~ hour, these measurements being separated by at least ~~fifteen (15)~~ minutes. ~~—~~ These measurements shall be made at the property line of the property from which the emission originates.

III.B. Odor Concentration Standard at Any Receptor

III.B.1. All housed commercial swine feeding operations shall manage odor emissions from all aspects of the operations such that odor emissions from the operations shall not be detected at any off-site receptor after the odorous air has been diluted with two ~~(2)~~ or more volumes of odor free air.

III.B.2. For the purposes of this Part B of Regulation Number 2, two ~~(2)~~ odor measurements shall be made within a period of one ~~(1)~~ hour, these measurements being separated by at least ~~fifteen (15)~~ minutes. ~~These measurements shall be made at the receptor.~~

IV. Technology Requirements for Process Wastewater Vessels and Impoundments

IV.A. Anaerobic Process Wastewater Vessels and Impoundments

IV.A.1. New or Expanded

All new or expanded anaerobic process wastewater vessels and impoundments, including, but not limited to, waste treatment or storage impoundments, constructed or under construction for use in connection with a housed commercial swine feeding operation, shall employ an approved cover or be operated with technologies or practices that are as effective as covers at minimizing odor from the operation, to capture, recover, incinerate, or otherwise manage odorous gases to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere. ~~The housed commercial swine feeding operation shall submit to the Division information sufficient to demonstrate that the technologies and practices used are as effective as covers at minimizing odor from the operation. Requirements concerning the use and maintenance of the technologies or practices employed shall be included in the permit to operate~~ and odor management plan ~~for the housed commercial swine feeding operation. All new anaerobic process wastewater vessels and impoundments shall meet the setback requirements of Section V., Part B, of this Regulation Number 2.~~

IV.A.2. Existing

~~On or before July 1, 1999, a~~ All existing anaerobic process wastewater vessels and impoundments, including, but not limited to, aeration tanks and waste treatment or storage impoundments, owned or operated for use in connection with a housed commercial swine feeding operation, shall employ a cover or be operated with technologies or practices that are as effective as covers at minimizing odor from the operation as provided in Sections IV.A.3.a. through IV.A.3.d., Part B, of this Regulation Number 2 so as to capture, recover, incinerate, or otherwise manage odorous gases to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere. ~~The housed commercial swine feeding operation shall submit to the Division information sufficient to demonstrate that the technologies and practices used are as effective as covers at minimizing odor from the operation. Requirements concerning the use and maintenance of the technologies or practices employed shall be included in the permit to operate for the housed commercial swine feeding operation.~~

IV.A.3. All Anaerobic process Wastewater Vessels and Impoundments

IV.A.3.a. The anaerobic treatment process wastewater vessel or impoundment shall employ an approved cover or be operated with technologies or practices that are as effective as covers at minimizing odor from the operation so as to capture, recover, incinerate, or

otherwise manage odorous gases to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere.

IV.A.3.b. Approved covers must constitute a continuous, physical barrier between the anaerobic process wastewater and the ambient air that completely covers the anaerobic process. ~~—~~ The cover must have no uncontrolled vents. ~~—~~ Odor emissions from the anaerobic process wastewater vessel or impoundment may not be vented to the atmosphere. ~~—~~ Rather, vents must be connected to equipment designed to capture, control, combust and/or treat the odorous emissions.

IV.A.3.c. Approved covers include, but are not limited to, the following:

IV.A.3.c.(1) Rigid covers, such as geodesic domes or other structures, which constitute a building roof or hard cap over the anaerobic process wastewater vessel or impoundment.

IV.A.3.c.(2) Synthetic covers made of reinforced polypropylene, high-density polyethylene, or other synthetic material, including geosynthetic membranes and geomembrane covers. ~~—~~ Synthetic covers can be supported by cables or other structures above the stored liquid, or can float on, or be inflated above, the waste liquids surface. ~~—~~ The cover must have a minimum thickness of ~~forty (40)~~ mils.

IV.A.3.c.(3) Any other cover approved by the Division with comparable effectiveness to the above approved covers to capture, recover, incinerate, or otherwise manage odorous gases to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere. ~~—~~ The owner or operator of a housed commercial swine feeding operation shall include in an application for a permit to operate credible evidence of the effectiveness of such device, technology, or material. ~~—~~ In addition, the owner or operator must demonstrate the continuous effectiveness of such alternative cover within ~~one hundred and eighty (180)~~ days of the Division's issuance of the permit to operate. ~~—~~ The owner or operator shall make such a demonstration through monitoring or as otherwise provided in the permit to operate. ~~—~~ The Division may condition final approval of such ~~—~~ cover upon such additional demonstrations as may be necessary to prove that such cover will minimize or manage, to the greatest extent practicable, emissions of odorous gases throughout the year. ~~—~~ If the owner or operator fails to make such demonstration of effectiveness, the owner or operator shall promptly submit to the Division, for incorporation into the permit to operate, a compliance schedule for the installation and operation of an approved cover as soon

as possible but no later than ~~one hundred and eighty (180)~~ days of the Division's determination of ineffectiveness.

IV.A.3.d. The owner or operator of a housed commercial swine feeding operation that employs technologies or practices associated with an anaerobic process wastewater vessel or impoundment must submit to the Division information sufficient to demonstrate that such technologies or practices are as effective as covers at minimizing odor from the operation.

IV.A.3.d.(1) The owner or operator shall include such information in an application for a permit to operate including olfactometry, scentometry or other test methods that have been reviewed and approved by the Division to demonstrate the effectiveness of technologies or practices in minimizing odor compared to Division-approved covers.

IV.A.3.d.(2) The owner or operator must demonstrate the continuous effectiveness of such technologies or practices within ~~one hundred and eighty (180)~~ days of the Division's issuance of the permit to operate. The owner or operator shall make such a demonstration through monitoring or other test methods as otherwise provided in the permit to operate. ~~—~~ The Division may condition final approval of such technologies or practices upon such additional demonstrations as may be necessary to prove that such technologies or practices will minimize or manage, to the greatest extent practicable, emissions of odorous gases throughout the year. ~~—~~ If the owner or operator fails to make such demonstrations of effectiveness, the owner or operator shall promptly submit to the Division, for incorporation into the permit to operate, a compliance schedule for the installation and operation of an approved cover, or other technology or practice approved by the Division as soon as possible but no later than ~~one hundred and eighty (180)~~ days of the Division's determination of ineffectiveness.

IV.A.3.e. An owner or operator may install a covered anaerobic treatment digester (including covered sequencing batch reactors) that treats the manure or process wastewater resulting from operations of the housed commercial swine feeding operation. ~~—~~ Any associated process wastewater vessels and waste impoundments must be maintained as aerobic or the cover requirement of Section IV.A., Part B, of this Regulation Number 2 shall apply.

IV.A.3.f. Reserved. ~~The following covers are considered to be experimental and/or of variable effectiveness and may be used for initial demonstrations of compliance to cover existing anaerobic process wastewater vessels and impoundments, but if the owner or operator is~~

~~unable to demonstrate continuous compliance and effectiveness comparable to approved covers in Section IV.A.3.b., Part B, of this Regulation Number 2 in capturing, recovering, incinerating, or otherwise managing odorous gases to minimize, to the greatest extent practicable, the emission of such odorous gases into the atmosphere, within one hundred and eighty (180) days of issuance of the permit to operate, the owner or operator shall submit a compliance schedule for the installation and operation of a approved cover in accordance with the provisions of Section VI.D.8.b., Part B, of this Regulation Number 2. The owner or operator shall provide in the compliance schedule for the installation of an approved cover as soon as possible, but no later than January 1, 2000. The Division may extend the date for continuous demonstration of compliance an additional one hundred and eighty (180) days as necessary to require the owner or operator to demonstrate that the experimental cover will minimize, to the greatest extent practicable, the emission of odorous gases into the atmosphere.~~

~~IV.A.3.f.(1) — Biocovers, such as wheat straw or barley straw, as long as the material is properly maintained so as not to leave any portion of the surface uncovered for any period of time.~~

~~IV.A.3.f.(2) — Aerobic covers must comprise at least the top three (3) feet of the anaerobic process wastewater vessel or impoundment. An aerobic cover must utilize air or oxygen.~~

IV.A.3.g.f. The owner or operator of a housed commercial swine feeding operation may choose among several approved alternatives for managing the odorous gases produced from the covered anaerobic process wastewater vessel or impoundment, so long as the alternative is designed, operated, and maintained to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere. Approved technologies are as follows:

IV.A.3.g.(1) Incineration. ~~—~~ Vented gases may be collected and incinerated through the use of a flare, incinerator, or other device designed to burn waste gases.

IV.A.3.g.(2) Combustion, as part of an energy recovery operation. Gases may be collected and combusted to operate a gas turbine, engine generator set, boiler, or heater, to produce usable energy.

IV.A.3.g.(3) Add-on Control Equipment. ~~—~~ Vented gases may be treated by the use of biofilters or wet scrubbers designed to remove odor emissions, including hydrogen sulfide, particulate matter, and ammonia gases, to the greatest extent practicable.

IV.A.3.g.(4) Any other device, technology, or process approved by the Division as comparably effective as the technologies listed in Section IV.A.3.g.(1) through IV.A.3.g.(3).

IV.B. Aerobic Impoundments

IV.B.1. New

Owners and operators of new aerobic impoundments shall employ technologies to ensure maintenance of aerobic conditions or otherwise to minimize the emission of odorous gases to the greatest extent practicable. ~~Requirements concerning the use and maintenance of the technologies employed shall be included in the permit to operate and odor management plan for the housed commercial swine feeding operation.~~ All new aerobic impoundments shall meet the setback requirements of Section V., Part B, of this Regulation Number 2.

IV.B.2. Existing

~~On or before July 1, 1999, a~~ All existing aerobic impoundments shall install and have operational technologies to ensure maintenance of aerobic conditions or otherwise to minimize the emission of odorous gases to the greatest extent practicable. Requirements concerning the use and maintenance of the technologies employed shall be included in the permit to operate and odor management plan for the housed commercial swine feeding operation.

V. Setback Requirements for New Land Waste Application Site or New Waste Impoundment

V.A. Air Quality Setbacks

No new land waste application site or new waste impoundment used in connection with a housed commercial swine feeding operation, shall be located less than:

- V.A.1. One ~~(1)~~ mile from an occupied dwelling without the written consent of the owner of the dwelling;
- V.A.2. One ~~(1)~~ mile from a public or private school without the written consent of the school's board of trustees or board of directors; and
- V.A.3. One ~~(1)~~ mile from the boundaries of any incorporated municipality without the consent of the governing body of the municipality by resolution.

A new land waste application site is a land waste application site that was not in use as of June 1, 1998. ~~A new waste impoundment is a waste impoundment that was not in use as of June 1, 1998.~~

V.B. Air Quality Setback Measurements and Waivers

Formatted: Indent: First line: 0", Space
Before: 12 pt

Formatted: par3, Indent: Left: 1", Space
Before: 12 pt

V.B.1. The one ~~(4)~~ mile setback is a required part of the permit to operate for a housed commercial swine feeding operation.

V.B.2. The setback distances specified in this Part B of Regulation Number 2 may be waived with the consent of the party benefited by the setback distance.

V.B.2.a. A waiver granted by a private property owner becomes effective upon being recorded with the county clerk of the county where the affected property is located. ~~—~~ The waiver shall reflect the full legal description of the proposed housed commercial swine feeding operation site, the full legal description of the property for which the waiver is granted, and the signature of the owner of record as of that date. ~~—~~ A certified copy of this recording shall be provided to the Division as part of the permit to operate application. ~~—~~ If the proposed housed commercial swine feeding operation site is in a different county than the affected property, the waiver shall also be filed in the county where the proposed housed commercial swine feeding operation site is located.

V.B.2.b. Public schools and incorporated municipalities shall approve a waiver of setback requirements by action of the governing body. ~~—~~ A certified copy of the final action approving the waiver shall be included with the application.

VI. Permit to Operate

VI.A. General Considerations

VI.A.1. Existing Sources

VI.A.1.a. No person shall operate, ~~or modify as per Section VIII.A.,~~ an existing housed commercial swine feeding operation without obtaining or having a valid permit to operate from submitting a complete and accurate application for a permit to operate to the Division for the housed commercial swine feeding operation ~~by April 15, 1999. ~~—~~ The owner or operator shall also file a copy of the application for a permit to operate with the county clerk and with the local or regional health department for the county(ies) in which the housed commercial swine feeding operation is located. ~~—~~~~ The owner or operator shall follow the procedures and requirements set forth in this Part B of Regulation Number 2 for obtaining and modifying a permit to operate from the Division. ~~—~~ The permit to operate application shall include an odor management plan that demonstrates the housed commercial swine feeding operation is in compliance with this Part B of Regulation Number 2. The owner or operator shall also file a copy of the application for a permit to operate with the county clerk and with the local or regional county or district public health department agency for the county(ies) in which the housed commercial swine feeding operation is located.

VI.A.1.b. A timely and complete application for a permit to operate for existing sources under the provisions of this Part B of Regulation Number 2 shall operate as a defense to an administrative enforcement action for the housed commercial swine feeding operation's failure to have a permit to operate until the Division or the Commission make a final determination on the permit to operate application. ~~—~~ This defense to an enforcement action shall not apply if, subsequent to the completeness determination, the applicant fails to submit by the deadline specified in writing by the Division any additional information identified as necessary to process the application, or to otherwise supplement its application in accordance with the provisions of Part B, of this Regulation Number 2. ~~—~~ This defense to an enforcement action shall not be available to an applicant who files a fraudulent application.

VI.A.2. New or Expanded Sources

No person shall commence construction, expansion, reconstruction, or modification of a housed commercial swine feeding operation without obtaining or having a valid permit to operate from the Division for the housed commercial swine feeding operation. ~~—~~ The owner or operator shall follow the procedures and requirements set forth in this Part B of Regulation Number 2 for obtaining and modifying a permit to operate. ~~—~~ The application for a permit to operate shall include an odor management plan that demonstrates the housed commercial swine feeding operation is in compliance with this Part B of Regulation Number 2.

VI.A.3. New, Expanded, and Existing Sources

VI.A.3.a. Any permit which has been issued pursuant to a prior regulation of the Commission, with respect to a project or the operation thereof, shall continue in full force and effect for the purpose for which it was originally issued, unless this current regulation no longer requires such permit, in which case the permit can be rescinded by the Division upon request of the owner or operator of the permitted source. ~~—~~ The source may request the Division to consolidate any previously issued permit with a permit to operate required under this Part B of Regulation Number 2.

VI.A.3.b. Any order or decision of the Division shall be final upon issuance.

VI.A.3.c. The owner or operator of a housed commercial swine feeding operation shall pay the Division permit processing fees in the amounts and subject to the limits specified in the provisions of the Colorado Revised Statutes Section 25-7-114.7 for the costs of processing an application for a permit to operate.

VI.A.4. Transfer or Assignment of Ownership

VI.A.4.a. If transfer or assignment of ownership or operation of an air pollution emission source permitted pursuant to this Part B of Regulation Number 2 is anticipated, the prospective owner or operator shall apply to the Division on Division supplied administrative permit to operate amendment forms for re-issuance of the existing permit to operate. ~~—~~To revise a permit to operate for a transfer or assignment of ownership or operation, the owner or operator must submit an amendment form to the Division no later than ~~thirty (30)~~ days after a change in the owner or operator of any facility, process, or activity of a housed commercial swine feeding operation.

VI.A.4.b. In accordance with the provisions of this Section VI.A.4., Part B, of this Regulation Number 2, the permit to operate shall be reissued upon completion of the transfer or assignment if the applicant certifies that no change is contemplated which might constitute a new, expanded, or modified air pollution source. ~~—~~In no event shall the new owner or operator of a housed commercial swine feeding operation which was subject to the requirements of this Part B of Regulation Number 2 prior to the transfer or assignment be relieved of the obligation to comply with such requirements by reason of a transfer. Such transfers are subject to all applicable permit processing and inspection fees.

VI.A.4.c. If a company is changing its name only, the owner or operator shall apply to the Division, on Division supplied administrative permit to operate amendment forms, for re-issuance of the existing permit to operate.

VI.A.4.d. No administrative permit to operate amendment for transfer or assignment of ownership of a source shall be complete until a written agreement containing a specific date for transfer of permit, responsibility, coverage and liability between the current and new permittee is received by the Division.

VI.B. Option for a Pre-Application Meeting

Prior to submitting an application for a permit to operate an applicant may request and, if so requested, the Division shall grant, a pre-application meeting with the applicant. ~~—~~At such meeting, the Division shall advise the applicant of the applicable requirements, including the information, plans, specifications and the data required to be furnished with the application for the permit to operate.

VI.C. Application for a Permit to Operate

VI.C.1. An application for a permit to operate shall be prepared on forms currently supplied by the Division.

VI.C.2. Applications shall be signed by a person legally authorized to act on behalf of the applicant. ~~—~~The applicant shall furnish all information and data required by

the Division to evaluate the application for a permit to operate and to make its preliminary analysis.

VI.C.3. An application for a permit to operate will not be deemed to be complete until all information and data required to evaluate the application have been submitted to the Division. ~~Within sixty (60) calendar days after the receipt of an application or any supplemental information requested by the Division, the Division will give notice to the applicant if and in what respect the application is incomplete. If the Division fails to notify an applicant that the application is incomplete within sixty (60) calendar days of receipt of the original application or receipt of the requested supplemental information, the application shall be deemed to have been complete as of the day of receipt by the Division of the original application or receipt of the requested supplemental information. The application shall be deemed to have been complete as of the day of receipt by the Division of the application or the last submitted supplemental information, whichever is later, for purposes of the application shield discussed in Section VI.A.1.b., Part B, of this Regulation Number 2. Nothing herein precludes the Division from requesting further information about the housed commercial swine feeding operation in order to process the application for a permit to operate. If the Division concludes that the application is not complete, it shall inform the applicant of the additional information, which must be submitted prior to consideration of the application.~~

VI.C.4. Completeness Determinations

VI.C.4.a. The Division shall review each application submitted to determine whether it is complete. ~~An application shall be deemed to be complete when it contains the information required by Sections VI.C.2., VI.C.3., and VI.D., Part B, of this Regulation Number 2 in sufficient detail for the Division to evaluate the subject housed commercial swine feeding operation and the application for a permit to operate and to determine all applicable requirements.~~

VI.C.4.b. An owner or operator shall supplement the application for a permit to operate to correct or update information provided in its initial submission as soon as it becomes aware of any omissions or incorrect information submitted or to address changes made to the housed commercial swine feeding operation after submission of the application.

VI.C.4.c. An owner or operator shall supplement its application for a permit to operate to address any requirements that become applicable to the housed commercial swine feeding operation after the date the owner or operator submitted its application, but prior to the Division's issuance of a draft permit to operate.

VI.C.5. Requests for Additional Information ~~—~~

If, after an application for a permit to operate is deemed complete, the Division determines that additional information is necessary to evaluate or take final action on

an application, the Division shall request necessary information in writing and set a reasonable deadline for response. ~~Additional information submitted by the deadline will be evaluated by the Division. If the applicant fails to provide the requested information or does not meet the deadline, the housed commercial swine feeding operation's ability to operate without a permit to operate shall terminate on the date of the deadline.~~

VI.C.6. Preliminary Analysis

The Division shall prepare its preliminary analysis within ~~sixty (60)~~ calendar days after receipt of a complete application for a permit to operate. ~~The preliminary analysis allows the Division to determine whether the housed commercial swine feeding operation will upon issuance of the permit to operate for existing sources or at the date of commencement of operation for new sources comply with all applicable emission control regulations.~~

VI.D. Content of Permit to Operate and Application for a Permit to Operate

A permit to operate and application for a permit to operate shall contain at a minimum the following:

VI.D.1. A complete and accurate odor management plan that minimizes to the greatest extent practicable off-site odor emissions (see Section VII).

VI.D.2. A description of the cover, technologies and/or practices employed to capture, recover, incinerate, or otherwise manage odorous gases from anaerobic process wastewater vessels and impoundments to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere.

~~VI.D.2.a. For existing sources subject to the requirements of Section IV.A.2., Part B, of this Regulation Number 2, if a cover and related technologies will not be installed by July 1, 1999:~~

~~VI.D.2.a.(1) A description of the status of any cover installation.~~

~~VI.D.2.a.(2) A cover schedule identifying the installation date, enforceable milestones, and an installation date as soon as practicable but no later than July 1, 2000. The cover schedule shall be at least as stringent as that contained in any judicial consent decree or administrative order to which the existing source is subject.~~

~~VI.D.2.a.(3) Progress reports, consistent with the cover schedule, to be submitted at least quarterly, or more frequently if specified by the Division. Such progress reports shall contain dates for achieving the activities or milestones required in the cover schedule, dates when such activities or milestones were achieved, an explanation of why any dates in the schedule were~~

~~not or will not be met, and any preventative or corrective measures adopted.~~

~~VI.D.2.a.(4) — Requirements for certifying compliance with the cover schedule.~~

VI.D.3. The technologies employed to ensure the maintenance of aerobic conditions or otherwise minimize to the greatest extent practicable the emission of odorous gases from aerobic impoundments to the atmosphere.

VI.D.4. The applicable emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of the Division's issuance of the permit to operate.

VI.D.5. All applicable monitoring requirements.-

VI.D.6. All applicable recordkeeping requirements.

VI.D.7. All applicable reporting requirements.—

~~VI.D.8. The following elements with respect to compliance with requirements other than those addressed in Section VI.D.2.a., Part B, of this Regulation Number 2:~~

~~VI.D.8.a. — For existing sources a compliance plan that contains:~~

~~VI.D.8.a.(1) — A description of the compliance status of the existing source with respect to all applicable requirements; and~~

~~VI.D.8.a.(2) — Requirements for which the existing source is not anticipated to be in compliance, at the time of issuance of the permit to operate, a narrative description of how the existing source will achieve compliance with such requirements.~~

~~VI.D.8.b. — A compliance schedule for existing sources that will not be in compliance at the time of issuance of the permit to operate. The compliance schedule shall contain:~~

~~VI.D.8.b.(1) — A list of applicable requirements with which the source is in compliance and a statement that the existing source will continue to comply with such requirements.~~

~~VI.D.8.b.(2) — A schedule of compliance at the time of issuance of the permit to operate; this schedule shall include a schedule of enforceable remedial milestones, leading to compliance with any applicable requirements for which the existing source will be in noncompliance at the time of issuance of the permit to operate. Compliance must be achieved as soon as possible, but not later than January 1, 2000. This compliance schedule shall be at least as stringent as that contained in any judicial consent~~

~~decree or administrative order to which the existing source is subject.~~

~~VI.D.8.b.(3) — Any schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.~~

~~VI.D.8.c. — Progress reports consistent with an applicable schedule of compliance to be submitted at least quarterly, or at a more frequent period if so specified in the applicable requirement or by the Division. Such progress reports shall contain the following:~~

~~VI.D.8.c.(1) — Dates for achieving the activities, milestones, or compliance required in the schedule for compliance, and dates when such activities, milestones, or compliance were achieved.~~

~~VI.D.8.c.(2) — An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventative or corrective measures adopted.~~

~~VI.D.8.d. — Requirements for compliance certification with terms and conditions contained in the permit to operate, including emission limitations, standards, or work practices. A permit to operate shall include each of the following:~~

~~VI.D.8.d.(1) — The frequency of submission of compliance certifications (annual unless otherwise specified);~~

~~VI.D.8.d.(2) — A means of monitoring the compliance of the existing source with its emission limitations, standards, and work practices;~~

~~VI.D.8.d.(3) — A requirement that the compliance certification includes: a) the identification of each permit term and condition that is the basis of the certification; b) the compliance status; c) whether compliance was continuous or intermittent; d) the method(s) used for determining the compliance status of the existing source, currently and over the reporting period; and e) such other facts as the Division may require to determine the compliance status of the existing source;~~

~~VI.D.8.d.(4) — Any additional requirements for compliance certification; and~~

~~VI.D.8.d.(5) — Such other provisions as the Division may require.~~

VI.E. Hearing and Public Comment Requirements

VI.E.1. ~~The Division shall in a timely manner, for applications for permits to operate for existing sources, cause public notice to be published in a newspaper of general distribution in the area in which the existing sources are located that applications will be on file with the county clerk for the county(ies) in which the housed commercial swine feeding operation is located on April 15, 1999. The notice shall comply with the requirements set out in Section VI.E.2.a through VI.E.2.d. and VI.E.2.f. through VI.E.2.h., Part B, of this Regulation Number 2, except that the notice will inform the public that the Division will receive public comments on the application for a period ending May 15, 1999.~~

~~VI.E.2.~~ For new operations, the Division shall, within ~~fifteen (15)~~ calendar days after the preparation of the preliminary analysis, cause public notice of the application to be published on the Colorado Department of Public Health and Environment's website and in a newspaper of general distribution in the area in which the proposed operation will be located, and a copy of the preliminary analysis and application to be filed with the county clerk(s) for the county(ies) in which the source is or will be located and shall send written notice to persons requesting notice of an application for a permit to operate for the type of area or source affected. ~~Such notice shall state:~~

VI.E.~~21~~.a. The location and nature of the proposed activity or project for which a permit to operate application has been filed;

VI.E.~~21~~.b. The locations where the application and preliminary analysis are available for public inspection;

VI.E.~~21~~.c. That comments concerning the ability of the proposed project or activity to comply with the applicable standards and regulations of the Commission are solicited from any interested person;

VI.E.~~21~~.d. That the Division will receive and consider public comments for ~~thirty (30)~~ calendar days after such publication;

VI.E.~~21~~.e. _____ The Division's preliminary determination of approval, conditional approval, or disapproval of the application and/or compliance plan;

VI.E.~~21~~.f. _____ That comments are solicited on an innovative technological system for pollution control if proposed by the applicant;

VI.E.~~21~~.g. _____ That comments are solicited on the air quality impacts of the housed commercial swine feeding operation or modification; and

VI.E.~~21~~.h. _____ That comments are solicited on alternatives available to the housed commercial swine feeding operation.

VI.E.~~32~~. For existing housed commercial swine feeding operations, within ~~fifteen (15)~~ calendar days after the preparation of the preliminary analysis the Division shall forward to the applicant written notice of the applicant's right to a formal

~~hearing before the Commission with respect to the application. A hearing request by the applicant must be provided to the Division within thirty (30) days of the issuance of the permit to operate.~~

~~VI.E.4.~~ For new housed commercial swine feeding operations, a hearing request by the applicant must be provided to the Division within ~~thirty (30)~~ days of publication of the notice for public comment.

VI.E.53. A hearing request pursuant to Section VI.E.4., Part B, of this Regulation Number 2, must be transmitted by the Division to the Commission, along with the complete application for a permit to operate, the preliminary analysis, and any written comments received by the Division within five ~~(5)~~ days after the end of the ~~thirty (30)~~ day comment period; except that for existing housed commercial swine feeding operations the Division will transmit the required information to the Commission within five ~~(5)~~ days after receipt of the hearing request.

VI.E.64. Applicants appealing any final decision of the Division shall follow the Commission's Procedural Rules (5 C.C.R. 1001-1, Section 1.6.0).

VI.F. Permit to Operate Review Requirements

Within ~~thirty (30)~~ calendar days following the completion of the Division's preliminary analysis for applications for existing sources, within ~~thirty (30)~~ calendar days following the period for public comment for new sources, or if a hearing is held, within ~~thirty (30)~~ calendar days following such hearing, the Division or the Commission, as the case may be, shall grant the permit to operate if it finds that the proposed housed commercial swine feeding operation or activity will meet all applicable requirements in this Part B of Regulation Number 2 and any other applicable Commission regulations.

VI.G. Denial or Revocation of the Permit to Operate—

VI.G.1. If the Division determines that a housed commercial swine feeding operation cannot comply or does not operate in compliance with the provisions of Section VI., Part B, of this Regulation Number 2, the Division shall issue its written denial of the application for a permit to operate stating the reasons for such denial. Any Division denial of a permit to operate shall become final upon mailing of the denial notice to the applicant by certified mail. The applicant may appeal the Division's final denial of a permit to operate as provided in Section VI.G.3., Part B, of this Regulation Number 2.

VI.G.2. Any applicant for a permit to operate shall advise the Division in writing of any refusal to accept any permit condition imposed by the Division within ~~thirty (30)~~ calendar days after receipt of the permit to operate.—Such refusal shall be deemed a denial of the application for a permit to operate.

VI.G.3. If the Division denies a permit to operate, the conditions imposed upon a permit to operate are contested by the applicant, or the Division revokes a permit to operate, the applicant or owner or operator may request a hearing before the Commission for review of the Division's action.—The hearing shall be heard in

accordance with the provisions of Section 25-7-114(4)(h), C.R.S. and Section 25-7-119, C.R.S. of the Act and Section 24-4-105, C.R.S. (State Administrative Procedures Act).

VI.H. Final Approval of a Permit to Operate_____

VI.H.1. Unless prior and mutually acceptable arrangements have been made, the applicant shall not commence the operation of a new source for which a permit to operate has been issued or reinstated without giving notice to the Division, ~~thirty (30)~~ calendar days prior to the date on which commencement will take place.

VI.H.2. Within ~~one hundred eighty (180)~~ calendar days after commencement of operation of a new source the owner or operator shall demonstrate to the Division compliance with the terms and conditions of the permit to operate and the Division may inspect the housed commercial swine feeding operation to determine whether or not the operating terms and conditions of the permit to operate have been satisfied.

V I.H.3. Before the Division grants final approval of the permit to operate, the Division may require the applicant to conduct performance tests in accordance with methods approved by the Division. ~~—A test protocol shall be submitted to the Division for review and approval prior to testing.—~~ The Division may monitor such tests and may, at its expense, conduct its own performance tests.

VI.H.4. If the Division determines that the terms and conditions of the permit to operate have been satisfied, the Division shall issue in writing its final approval of a permit to operate to the applicant. ~~—Otherwise, the Division shall revoke the permit to operate.~~

VI.H.5. Final approval of a permit to operate may be issued at the same time as initial approval for temporary sources within a housed commercial swine feeding operation of a duration of one ~~(1)~~ month or less.

VI.I. Cancellation of a Permit to Operate_____

Whenever an owner or operator wishes to cancel a permit to operate, the owner or operator shall notify the Division, in writing.

VII. Odor Management Plan_____

VII.A. The application for a permit to operate shall be accompanied by a complete and accurate odor management plan. ~~—An odor management plan is required for each new or existing source.—~~ The odor management plan shall be approved by the Division prior to issuance of the permit to operate.

VII.B. A complete and accurate odor management plan shall include a description of and a map which demonstrates the location of each of the operations and processes at the housed commercial swine feeding operation, including the following:

VII.B.1. Swine confinement structures, including open animal feeding operations;

VII.B.2. Manure collection, storage, and treatment systems, including anaerobic process wastewater vessels and impoundments and aerobic impoundments;

VII.B.3. Composting storage sites; and—

VII.B.4. Land application equipment and sites. —

VII.C. A complete and accurate odor management plan shall also include the following components:

VII.C.1. Construction and design plans for odor controls and management practices, including for the following technologies if applicable:

VII.C.1.a. The necessary technology that shall be employed to minimize to the greatest extent practicable off-site odor emissions from all aspects of the operations at the housed commercial swine feeding operation, including swine confinement structures, animal waste, and composting storage sites, and odor and aerosol drift from land application equipment and sites;

VII.C.2. —Operation plans for odor controls and management practices, including plans for the following, if applicable:

VII.C.2.a. Proper operation and maintenance of the necessary technology or practices to minimize to the greatest extent practicable off-site odor emissions from all aspects of the operations at the housed commercial swine feeding operation, including swine confinement structures, animal waste, and composting storage sites, and odor and aerosol drift from land application equipment and sites;

VII.C.2.b. Operation of the required equipment in compliance with manufacturer's specifications and recommendations;

VII.C.2.c. Proper operation and maintenance of covers, technologies and/or practices employed for anaerobic process wastewater vessels and impoundments to capture, recover, incinerate, or otherwise manage odorous gases to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere; and

VII.C.2.d. Proper operation and maintenance of the necessary technology employed for aerobic impoundments to ensure maintenance of aerobic conditions or otherwise to minimize the emission of odorous gases to the greatest extent practicable.

VII.C.3. —An animal waste management plan for odor control and management practices necessary to minimize to the greatest extent practicable off-site odor emissions from all aspects of the operations at the housed commercial swine

feeding operation, including swine confinement structures, animal waste, and composting storage sites, and odor and aerosol drift from land application equipment and sites.

VII.D. All plans and specifications for odor control equipment and management practices included in the odor management plan must conform to common and accepted professional practices.

VII.E. Testing, sampling, and analysis requirements appropriate for the housed commercial swine feeding operation.

VIII. Modification or Reopening of a Permit to Operate

VIII.A. Modification_____

The owner or operator must request, or the Division may require, a modification to the permit to operate and odor management plan when it is necessary to correct operational problems or to incorporate controls that minimize to the greatest extent practicable the emission of odorous gases from anaerobic process wastewater vessels and impoundments into the atmosphere, the emission of odorous gases from aerobic impoundments, and off-site odor emissions from all aspects of the housed commercial swine feeding operations. The owner or operator must obtain approval from the Division prior to initiating any change in operational procedures that may impact odorous gases, including but not limited to the following:

VIII.A.1. Increasing the number of animals permitted at the housed commercial swine feeding operation;

VIII.A.2. Changing animal waste treatment, storage, or disposal practices from those permitted at the housed commercial swine feeding operation;

VIII.A.3. Changing the nature and volume of the animal waste generated at the housed commercial swine feeding operation; and

VIII.A.4. Disposing of animal waste at any locations other than those identified in the permit to operate.

If a housed commercial swine feeding operation is required to modify its permit to operate or odor management plan, it shall pay the Division permit processing fees in the amounts and subject to the limits specified in the provisions of the Colorado Revised Statutes Section 25-7-114.7 for the Division's review of the odor management plan revisions.

VIII.B. Revocations/Reopening for Cause_____

VIII.B.1. A permit to operate issued pursuant to this Part B of Regulation Number 2 shall be reopened and revised in accordance with the State Act under any of the following circumstances:

Formatted: Indent: Left: 0.5", Space Before: 12 pt

VIII.B.1.a. The Division determines that the permit to operate contains a material mistake or that inaccurate statements were made in establishing the terms or conditions of the permit to operate.

VII.B.1.b. The Division determines that the permit to operate must be revised or revoked to assure compliance with the applicable requirements.

VIII.B.2. Permit to operate reopenings and reissuance shall be processed using the procedures set forth in Section VI., Part B, of this Regulation Number 2 for permit to operate issuance and renewal.

VIII.B.2.a. Proceedings to reopen and reissue permits to operate affect only those parts of the permit to operate for which cause to reopen exists.

VII.B.2.b. Reopenings under this Section VIII.B., Part B, of this Regulation Number 2 shall not be initiated before notice of such intent is provided to the housed commercial swine feeding operation by the Division at least ~~thirty (30)~~ days in advance of the date that the permit to operate is to be reopened.

IX. Specific Odor Control Requirements

Housed commercial swine feeding operations shall employ technology to minimize to the greatest extent practicable off-site odor emissions from all aspects of its operations.

IX.A. Mandatory Specific Odor Control Requirements

Housed commercial swine feeding operations shall employ the following odor control technologies and comply with the following work practices at a minimum for all aspects of the operations, unless the owner or operator can demonstrate that an alternative technology or work practice is more effective in minimizing off-site odor emissions from that aspect of the operation to the greatest extent practicable, with the exception of Sections IX.A.2.a. and IX.A.2.b., Part B, Regulation Number 2. In any event, the housed commercial swine feeding operation must comply with the standards in Section III.A. and III.B., Part B, of this Regulation Number 2.

IX.A.1. Swine Confinement Structures

Swine confinement structures, including ~~under floor~~ waste storage areas, must be designed, operated, and maintained to minimize odor emissions. Each swine confinement structure must employ, at a minimum, the following odor control technologies and work practices to minimize odor emissions to the greatest extent practicable, but in any event must meet the standards in Sections III.A. and III.B., Part B, of this Regulation Number 2:

IX.A.1.a. Adequate Ventilation

IX.A.1.a.(1) Existing sources shall employ the necessary technology and work practices to ensure adequate ventilation and efficient air movement to reduce gases and odors, remove moisture, control temperature, and keep the animals clean.

IX.A.1.a.(2) New sources that store and/or treat wastewater, solids, and/or sludges under the floor of the swine building shall employ mechanical ~~underfloor~~under floor ventilation and add-on control equipment for exhaust vents to the outside.

IX.A.1.b. Dust Management ~~_____~~

The dust at a confinement structure must be managed so as to minimize off-site odor emissions to the greatest extent practicable by minimizing the amount of dust in the confinement structure.

IX.A.1.b.(1) The inside of the confinement structure shall be maintained so as to keep ~~_____~~ the animals reasonably clean.

IX.A.1.b.(2) Bedding shall be replaced as necessary to reduce dust ~~_____~~if applicable.

IX.A.1.b.(3) The feed delivery downspouts shall be sized to minimize the generation of dust.

IX.A.1.b.(4) The feed storage tanks and containers shall be maintained so as to minimize spills, including keeping mechanical equipment in good repair and removing spilled feed ~~promptly~~as specified in the Odor Management Plan.

IX.A.1.b.(5) Exhaust fans and shutters must be cleaned of dust as necessary.

IX.A.1.b.(6) Building sidewall screens should be cleaned of debris such as dust, cobwebs, and weeds as frequently as necessary.

IX.A.1.c. Manure Management ~~_____~~

IX.A.1.c.(1) All surfaces (including slotted and slatted floors) on which manure may collect and on which animals are maintained, including floors and walls, should be as clean and dry as possible and with a minimum of cracks and crevices.

IX.A.1.c.(2) Manure must be removed from all of these surfaces as frequently as necessary, by flushing or pit recharge using fresh, recycled, or well treated water, or scraping.

IX.A.1.c.(3) The surfaces shall be completely cleaned and washed down between groups of animals.

- IX.A.1.c.(4) Flushing systems shall be flushed as frequently as necessary.
- IX.A.1.c.(5) Pit recharge systems shall be partially drained and refilled as frequently as necessary.
- IX.A.1.c.(6) The floor surface area on which manure can accumulate shall be minimized.
- IX.A.1.c.(7) New sources shall use slotted (also known as slatted) floors or another design as approved by the Division.
- IX.A.1.c.(8) Flush tanks shall have a cover and the fill line shall be extended to near the bottom of the tank with an anti-siphon vent.
- IX.A.1.c.(9) Sump tanks shall be covered.

IX.A.2. Solid Waste and Process Wastewater Collection, Storage, and Treatment Systems

All solid waste and process wastewater held in process wastewater collection, storage and treatment systems, including waste impoundments and anaerobic and aerobic impoundments and vessels, must be stored, treated, and handled in a manner to minimize odor emissions. Solid waste and process wastewater may be stored only in accordance with the following methods:

- IX.A.2.a. In anaerobic process wastewater vessels and impoundments, pursuant to the preceding Section IV.A., Part B, of this Regulation Number 2; or
- IX.A.2.b. In aerobic impoundments, pursuant to the preceding Section IV.B., Part B, of this Regulation Number 2.
- IX.A.2.c. The owner or operator shall ensure that separated solids are removed promptly to a storage vessel and managed to minimize off-site odor emissions to the greatest extent practicable, composted in compliance with Section IX.A.3., Part B, of this Regulation Number 2, and/or land applied in compliance with Section IX.A.4., Part B, of this Regulation Number 2.
- IX.A.2.d. The owner or operator shall comply with the following practices during operation of process wastewater vessel or waste impoundment:
 - IX.A.2.d.(1) Treatment and storage vessels and impoundments must be loaded at the proper rate to minimize the emission of odorous gases to the greatest extent practicable.

IX.A.2.d.(2) Loading shall occur on a daily or frequent basis to avoid "shock" loading and upset conditions. ~~and~~

IX.A.2.d.(3) Loading shall occur through a feeder pipe that discharges below the surface water level. ~~and~~

IX.A.2.d.(4) ~~—~~ Aerobic impoundments shall ensure that there is sufficient oxygen in the impoundment to ensure maintenance of aerobic conditions and utilize air or oxygen as defined in this Part B of Regulation Number 2.

IX.A.2.e. Owners and operators shall minimize release of odorous gases from the liquids in the process wastewater vessels and waste impoundments to the greatest extent practicable.

IX.A.2.f. The owner or operator shall ensure that all pre-treatment digesters are operated to ensure stabilization of the waste and odor control, including operating at the appropriate loading rate, retention time, and temperature.

IX.A.3. Manure Composting Storage Sites ~~—~~

All solid manure compost operations shall meet at a minimum the following best odor management control practices:

IX.A.3.a. All compost piles shall be operated to ensure maintenance of proper aerobic conditions at all times or shall be fully contained in a vessel or a covered building to minimize to the greatest extent practicable off-site odor emissions.

IX.A.3.b. All compost piles shall be aerated using natural, mechanical, or other Division- approved system. ~~—~~ If a natural system is used, the owner or operator shall turn the compost pile on a frequent basis (at least weekly or more frequently as necessary to comply with Sections III.A. and III.B., Part B, of this Regulation Number 2). ~~—~~ If a mechanical system is used, the owner or operator shall establish and follow operating parameters to minimize to the greatest extent practicable off-site odor emissions.

IX.A.4. Land Application ~~—~~

Owners and operators land applying process wastewater, solid waste, or sludge shall, at a minimum, comply with the following requirements:

IX.A.4.a. No land application of process wastewater, solid waste, or sludge shall occur on lands which are saturated, on land where ponding is occurring, or on land with a snow depth of greater than one (~~1~~) inch. During this period, wastewater must be impounded or otherwise treated pursuant to this Part B of Regulation Number 2.

IX.A.4.b. No land application of process wastewater, solid waste, or sludge shall occur on lands which are frozen unless the Water Quality Control Division has approved of the required site-specific analysis demonstrating that run-off will not occur. During this period, wastewater must be impounded or otherwise treated pursuant to this Part B of Regulation Number 2.

IX.A.4.c. Process wastewater shall be land applied only when the wind conditions are such to minimize off-site transport of the process wastewater.

IX.A.4.d. Land application on weekends and holidays shall not occur unless the Division approves of a waiver or under dire circumstances or an emergency.

IX.A.4.e. All process wastewater: _____

IX.A.4.e.(1) that is land applied and not injected shall be pretreated to remove at least ~~sixty five 65~~ percent (~~65%~~) of the total solids and remove over ~~ninety 90~~ percent (~~90%~~) of the volatile fatty acids or achieve at least ~~sixty 60~~ percent (~~60%~~) removal of total volatile solids; or

IX.A.4.e.(2) that is land applied and injected need not be pretreated as described in Section IX.A.4.e.(1), Part B, Regulation Number 2.

IX.A.4.f. All process wastewater disposal operations using pressure spray systems shall meet the following requirements:

IX.A.4.f.(1) Spraying shall occur using minimum recommended operating pressure with a low pressure system that is no greater than ~~twenty (20)~~ psi, unless the process wastewater is pretreated to remove at least ~~sixty 60~~ percent (~~60%~~) of the solids and destroy ~~ninety five 95~~ percent (~~95%~~) of the volatile fatty acids or achieve at least ~~sixty 60~~ percent (~~60%~~) removal of total volatile solids;

IX.A.4.f.(2) Pump intake shall be located near the waste impoundment liquid surface;

IX.A.4.f.(3) A low trajectory system shall be used for spraying; and

IX.A.4.f.(4) Multi-stage waste impoundment systems shall only utilize liquids for land application from the last stage waste impoundment.

IX.A.4.g. Owners and operators land applying any solids separated from process wastewater by screening, settling, or other means, and the land application of any sludge from any process wastewater vessel or

impoundment, shall, at a minimum, comply with the following requirements:

IX.A.4.g.(1) All solids or sludges being land applied shall be injected or knifed into the soil immediately upon application. ~~—~~ The owner or operator may request and the Division may approve solids or sludges being incorporated into the soil within six ~~(6)~~ hours after application is completed if the owner or operator can demonstrate such a process minimizes to the greatest extent practicable off-site odor emissions.

IX.A.4.g.(2) All solids or sludges applied to the land using subsurface injection methods shall not result in significant amounts of the solids or sludges being present on the surface within one ~~(1)~~ hour after the solids or sludges are injected.

IX.A.4.h. Land application of wastewater shall not be allowed outside of the period of March 1 through October 31.

IX.A.5. Carcass Disposal ~~_____~~

Owners and operators shall dispose of carcasses in a manner that minimizes to the greatest extent practicable off-site odor emissions, using one of the approved carcass disposal methods described in Sections IX.A.5.a. through IX.A.5.d., Part B, of this Regulation Number 2.

All carcasses shall be refrigerated or kept natural cooled in a covered enclosure if the owner or operator fails or is unable to properly dispose of the carcasses in accordance with Sections IX.A.5.a. through IX.A.5.d., Part B, of this Regulation Number 2, within ~~twenty-four (24)~~ hours.

IX.A.5.a. Incineration. ~~—~~ Owners or operators shall store the carcasses in an enclosure until the carcasses can be incinerated. ~~—~~ The carcasses shall be incinerated so as to avoid incomplete combustion. ~~—~~ If the incinerator is unable to consistently achieve complete combustion, the owner or operator shall install a secondary stack burner. ~~—~~ The owner or operator shall operate the incinerator in compliance with Commission Regulation Number 6 (5 C.C.R. 1001-8), Part B Sections VII. concerning the operation of incinerators.

IX.A.5.b. Burial. ~~—~~ Owners or operators shall bury the carcasses after one ~~(1)~~ day of storage. ~~—~~ The carcasses shall be completely covered so as to minimize to the greatest extent practicable odor emissions. ~~—~~ The carcasses shall be buried so as not to negatively impact water quality of the waters of Colorado and be in compliance with the Colorado Solid Waste Act and its implementing regulations.

IX.A.5.c.Transport Off Site.— Owners or operators shall store the carcasses in a manner to minimize to the greatest extent practicable off-site odor emissions from death of the animal until the carcass is picked up.

IX.A.5.d. Composting.— Owners or operators shall put the carcasses in the composter within one (1) day of the death of the animal.— The carcasses shall be maintained in a manner to minimize to the greatest extent practicable off-site odor emissions.

IX.A.5.e. Any other disposal method approved by the Division.

IX.B. Recommended Specific Odor Control Requirements

The following technologies and work practices are recommended and the Division may require a housed commercial swine feeding operation to employ the following odor control technologies and comply with the following work practices at a minimum for all aspects of the operations, if the Division determines that the housed commercial swine feeding operation must employ such technologies or work practices to comply with the standards in Sections III.A. and III.B., Part B, of this Regulation Number 2.

IX.B.1. Swine Confinement Structures—

IX.B.1.a. Adequate Ventilation—

IX.B.1.a.(1) A mechanical ventilation system shall be designed, installed, operated, and maintained to ensure adequate ventilation and efficient air movement to reduce gases and odors, remove moisture, control temperature, and keep the animals clean.

IX.B.1.a.(2) Fresh air intakes for ventilation located away from dust sources and manure pits.

IX.B.1.a.(3) Add-on control equipment installed on all exhaust vents from the confinement structures.

IX.B.1.a.(4) Mechanical ~~under floor~~ under floor ventilation and add-on control equipment from exhaust vents to the outside.

IX.B.1.b. Dust Management—

IX.B.1.b.(1) The use of feed additives and enclosed feeder mechanisms and feed delivery systems.

IX.B.1.c.Manure Management—

IX.B.1.c.(1) Manure must be removed from all of surfaces on which manure may collect and on which animals are maintained as

frequently as necessary, by flushing or pit recharge using fresh or well treated water, or scraping.

IX.B.1.c.(2) Use of feed management practices, such as phase feeding, amino acid supplemented low protein diets, enzymes, or other feed additives, which reduce the nitrogen content of manure.

IX.B.1.d. Windbreak walls shall be erected downwind from the fans that exhaust air from tunnel-ventilated confinement structures.

IX.B.1.e. Add-on control system shall be installed at each exhaust vent to the outside at confinement structures.

IX.B.2. Solid Waste and Process Wastewater Collection, Storage, and Treatment Systems

IX.B.2.a. The owner or operator shall comply with the following practices during operation of a process wastewater vessel or waste impoundment:

X.B.2.a.(1) Aerobic impoundments shall employ mechanical aerators sized to provide sufficient oxygen to ensure maintenance of aerobic conditions and utilize air or oxygen as defined in this Part B of Regulation Number 2, and mechanically aerated impoundments shall be aerated continuously; and

IX.B.2.a.(2) The removal pumps shall be located as far as possible from the inflow line and above the designed sludge storage volume.

IX.B.2.b. Fill and recharge lines are extended to near the bottom of the pit with an anti-siphon vent to and minimizing agitation when pumping liquids.

IX.B.3. Manure Composting Storage Sites

IX.B.3.a. All air collected from the manure compost pile shall be directed to one or more control points for odor reduction using one or more odor control practices defined in Section IV.A.3.e., Part B, of this Regulation Number 2.

IX.B.4. Land Application

IX.B.4.a. All process wastewater, solid wastes, and sludges prior to land application shall be treated as necessary to minimize to the greatest extent practicable off-site odor emissions.

Formatted: Indent: Left: 1", First line: 0", Space Before: 12 pt

IX.B.4.b. Land applying process wastewater, solid wastes, and sludges may be restricted based upon other factors as necessary to minimize to the greatest extent practicable off-site odor emissions, including, but not limited to, wind direction, temperature, humidity, and impending rainfall.

IX.B.4.c. The soil shall be tilled prior to and after application of solid wastes or sludges.

IX.B.4.d. All process wastewater disposal operations using pressure spray systems shall meet the following requirements:

IX.B.4.d.(1) The application of extra fine spray shall not occur.

IX.B.5. Carcass Disposal_____

IX.B.5.a. Any odor emissions from any enclosures or covered units or vessels used to store carcasses shall be captured and treated as necessary.

X.____ Testing, Recordkeeping, Reporting, and Monitoring Requirements

XA. Testing Requirements_____

X.A.1. Testing requirements apply to all aspects of the housed commercial swine feeding operations and include:

X.A.1.a. Testing for concentration of off-site odor emissions; and

X.A.1.b. Testing for emissions from incinerators if applicable.

X.A.2. At a minimum, an owner or operator shall comply with the following testing requirements:

X.A.2.a. An initial compliance test within ~~one hundred and eighty (180)~~ days after a permit to operate has been issued; and

X.A.2.b. Semi-annual compliance testing beginning within six ~~(6)~~ months of issuance of the permit to operate.

X.B. Recordkeeping Requirements_____

At a minimum, an owner or operator shall comply with the following recordkeeping requirements:

X.B.1. Records of the required monitoring information that includes the following:

X.B.1.a. Date, place as defined in the permit to operate, and time of sampling or measurements;

X.B.1.b. Date(s) on which analyses were performed;

X.B.1.c. The company or entity that performed the analyses;

X.B.1.d. The analytical techniques or methods used;

X.B.1.e. The results of such analysis; and

X.B.1.f. The operating conditions existing at the time of sampling or measurement.

X.B.2. The owner or operator shall record the dates, field locations, wind direction, wind rate, application rate, and the source of the process wastewater, solid waste, or sludge for each land application at the housed commercial swine feeding operation.

X.B.3. The retention of records of all required monitoring data and support information for a period of at least five ~~(5)~~ years from the date of the monitoring sample, measurement, report, or application.—A housed commercial swine feeding operation shall make available for Division review all other records of required monitoring data and support information required to be retained by a housed commercial swine feeding operation upon ~~forty-eight (48)~~ hours advance notice by the Division.

X.C. Monitoring Requirements

At a minimum, an owner or operator shall comply with the following monitoring requirements:

X.C.1. All odor emissions monitoring and analysis procedures or test methods relied upon in the odor management plan, including any required procedures and methods for compliance certification requirements.

X.C.2. Periodic monitoring sufficient to yield reliable data for the relevant time period that are representative of the housed commercial swine feeding operation's compliance with the permit to operate and odor management plan.—Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirements in the permit to operate and odor management plan.

X.C.3. As necessary, requirements concerning the use, maintenance, and where appropriate, installation of monitoring equipment or methods as required by the permit to operate and odor management plan.

X.D. Reporting Requirements

At a minimum, an owner or operator shall comply with the following reporting requirements:

X.D.1. ~~Submittal of an annual all-reports of by February 15th of each year that includes the results of all~~ any required monitoring ~~at least every six (6) months except as otherwise required on a more frequent basis in the odor management plan.~~

Formatted: Superscript

X.D.2. Prompt reporting of deviations from permit to operate requirements, including those attributable to upset conditions, the probable cause of such deviations, and any corrective actions or preventative measures taken.

XI. Enforcement

The Division shall enforce the provisions of Regulation Number 2, Part B. ~~The Division may delegate enforcement of the provisions of Regulation Number 2, Part B to any county or regional department of district public health agency.~~ If the Division delegate-s enforcement of Regulation Number 2, Part B, the Division shall monitor the actions of any county or ~~regional department of health~~ district public health agency as such actions pertain to enforcement of Regulation Number 2, Part B.

XII. Annual Fees

The Division shall assess each housed commercial swine feeding operation an annual fee in accordance with and in the amounts and limits specified in the provisions of the Colorado Revised Statutes Section 25-7-138 (5).

- XII.A. This fee shall be based on the working capacity of each housed commercial swine feeding operation.
- XII.B. This fee shall be designated to fund and offset the Division's direct and indirect costs of an inspection, complaint response and enforcement program.
- XII.C. By mutual agreement, any county or district public health agency ~~or regional department of health~~ that assists in enforcement of this Regulation Number 2, Part B shall receive funding to conduct inspections and respond to complaints.

XIII. Reserved. Environmental Leadership Program

Formatted: Not Highlight

XIII.A. — Applicability

~~The provisions of this Section XI., Part B, of this Regulation Number 2, shall apply statewide to any housed commercial swine feeding operations that voluntarily achieve environmental results that exceed the minimum compliance requirements contained in Part B of this Regulation Number 2, and Water Quality Control Commission Regulation Number 61 concerning the Colorado Discharge Permit System. Additionally, to qualify for the Environmental Leadership Program, a housed commercial swine feeding operation must meet the basic Environmental Leadership Program Elements contained in this Section XI., Part B, of this Regulation Number 2. Participation in the program is voluntary and subject to review every three (3) years by the Department. Applications for the Environmental Leadership Program can be obtained by contacting the Program Administrator, Environmental Leadership Program, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, QPPI A-5, Denver, Colorado 80246-1530; telephone (303) 692-3477.~~

Contents of the application for Environmental Leadership Program participation are set forth below, as well as regulatory and other incentives that are available to applicants that are chosen to participate. The Executive Director of the Department reviews all completed applications and notifies the applicant in writing of its Environmental Leadership Status. Innovative and creative projects are encouraged, as well as projects that provide significant environmental and community benefits. Applications of chosen entities will be incorporated into written agreements, which will also describe the incentives to be provided by the Department.

If selected to participate in the Environmental Leadership Program, the participant must undertake at least two (2) pollution prevention projects within three (3) years. A low-interest loan from the Environmental Leadership Program Pollution Prevention Revolving Loan Fund may be available.

XIII.B.—Compliance Demonstration

The Environmental Leadership Act limits eligibility to applicants that have an environmental compliance history that is free of serious environmental violations for a period of three (3) years immediately preceding the application date. For applications from existing housed commercial swine feeding operations that are received on or before July 1, 1999, Leadership status may be granted by July 1, 2000 if no serious environmental violations occur or are discovered during that twelve-month period. If an application is not submitted by July 1, 1999, the applicant must demonstrate the requisite three (3) years without serious environmental violations subsequent to July 1, 1999.

XIII.B.1. The Applicant for Environmental Leadership shall submit, along with the Leadership Application described below, information concerning the environmental history of the past three (3) years of any housed commercial swine feeding operation owned or operated by the applicant, or any other such operation with common ownership in Colorado, including all citations, administrative orders or penalties, civil injunctions or other civil actions, and criminal actions, past, current, and ongoing, taken by any person, agency, or court relating to noncompliance with any environmental law, rule, agency order, or court action in conjunction with the operation of a housed commercial swine feeding operation.

XIII.B.2. The Applicant for Environmental Leadership shall submit information about all environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the Applicant.

XI.B.3.—Environmental Management System

Applicants must have an Environmental Management System in place and submit the following information in its application:

XIII.B.3.a. All management approved environmental policies;

XIII.B.3.b. Relevant procedures to achieve and maintain environmental compliance;

XIII.B.3.c. — National Pork Producers Council's Environmental Assurance and On-site Odor Assessment Program self-assessment forms (or other comparable assessment performed by independent third parties);

XIII.B.3.d. — Proof of employee training program that addresses timely and satisfactory completion of training for employees in the following areas:

XIII.B.3.d.(1) — proper operation and management of solid waste and wastewater storage and treatment structures and waste impoundments;

XIII.B.3.d.(2) — animal waste management, including land application of waste;

XIII.B.3.d.(3) — odor control, including management of buildings, manure, nutrient needs, water and storage facilities, and control equipment;

XIII.B.3.d.(4) — water quality protection; and

XIII.B.3.d.(5) — proper monitoring, testing, recordkeeping, and reporting requirements concerning environmental laws.

XIII.B.4. Pollution Prevention Plan

Applicants must have a pollution prevention plan in place and submit information regarding the pollution prevention plan, which may include but is not limited to:

XIII.B.4.a. — corporate, company, or individual business statement of commitment to pollution prevention, including waste reduction goals, energy and water conservation goals, odor reduction goals, pollutant emissions reduction goals, name of pollution prevention program manager;

XIII.B.4.b. — Definition of pollution prevention consistent with the following: source reduction and other practices that reduce or eliminate creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources and protection of natural resources by conservation;

XIII.B.4.c. — Pollution prevention training for employees and employee recognition program;

XIII.B.4.d. — Description of major waste and emission sources or processes at your facility and Existing and new process pollution prevention review procedures;

XIII.B.5. Compliance Assurance

XIII.B.5.a. ~~Community outreach efforts and goals;~~

XIII.B.5.b. ~~Product stewardship/customer and supplier outreach and recognition program; and~~

XIII.B.5.c. ~~Environmental compliance audit program, including tools and measurements to evaluate compliance with environmental regulations and performance standards, to correct noncompliance within a reasonable period of time, and to report noncompliance as required by law;~~

XIII.B.5.d. ~~Measurement~~

~~Benchmarking/key performance indicators, or existence and maintenance of other verifiable, quantitative and qualitative measures or methods that document resource conservation goals and pollution prevention performance goals.~~

XIII.B.6. Additional Program Elements

In addition to the basic program elements described in XI.B.1. through XI.B.4., Part B, or this Regulation Number 2, Applicants are expected to:

XIII.B.6.a. ~~Take on innovative projects that benefit their operations internally while also serving to provide significant environmental benefits;~~

XIII.b.6.b. ~~Serve in a mentoring role to other housed commercial swine feeding operations, or establish a network to exchange innovative and/or successful environmental and community projects and ideas; or~~

XIII.B.6.c. ~~Work with the community in which the operation is located to provide a community concern and response forum and to otherwise to instill a sense of community responsibility concerning environmental and other issues.~~

XIII.B.7. Elective Program Elements

Innovative and creative projects to meet the above additional program elements are encouraged. ~~These additional program elements can be met either by undertaking new projects or through the enhancing of existing efforts. Examples of additional program elements include:~~

XIII.B.7.a. ~~Participation in EPA's AgStar Program;~~

XIII.b.7.b. ~~Use of innovative technologies to control odors;~~

XIII.B.7.c. ~~Incorporating green building design (energy efficiency and use of natural light) into structures;~~

~~XIII.B.7.d. — Biogas Generation and recovery for energy use; and~~

~~XIII.B.7.e. — Setting up a community advisory board.~~

~~XIII.B.8. Incentives Offered for Participating in the Program~~

~~XIII.B.8.a. — Formal public recognition by the governor and the department at least annually to include, but not be limited to:~~

~~XIII.B.8.a.(1) — awards;~~

~~XIII.B.8.a.(2) — public announcements~~

~~XIII.B.8.a.(3) — environmental leadership seal; and~~

~~XIII.B.8.a.(4) — news release.~~

~~XIII.B.8.b. — Greater reliance by the department on the entity's self-monitoring, self-reporting, self-certification, or third-party certification to demonstrate compliance with environmental laws and permits, which may result in fewer inspections.~~

~~XIII.B.8.c. — Consolidation and simplification of reporting and monitoring requirements and/or fewer reporting and monitoring requirements.~~

~~XIII.B.8.d. — Reduced civil penalties in accordance with the EPA and National Pork Producers Council's comprehensive Clean Water Act Compliance Audit Program agreement.~~

~~XIII.B.8.e. — Credit for permit fees.~~

XIV. Severability Clause

If any provision of this regulation is found to be invalid by a court of competent jurisdiction, the remaining provisions of the regulation are valid, unless it appears to the court that the valid provisions of the regulation are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed the Commission would have enacted the valid provisions without the void one; or unless the court determines that the valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the statutory provisions.

PART C STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE

IV. Adopted: May 16, 2013

Background

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Colorado Administrative Procedures Act, Section 24-4-103(4), C.R.S. and the Colorado Air Pollution Prevention and Control Act, Sections 25-7-110 and 25-7-110.5, C.R.S.

Basis

Regulation Number 2, Part B contains odor standards, technological requirements for process wastewater impoundments and vessels and other permitting and monitoring requirements for housed commercial swine feeding operations. The purpose of this rule revision is to update and remove portions of the rule that are no longer applicable, are deemed obsolete, and to remove compliance dates that have already past. In addition, grammatical and formatting errors are being corrected, and a reporting burden reduced by revising a reporting requirement from two times per year to one time per year.

Specific Statutory Authority

The authority for this regulation is contained in the Colorado Air Pollution Prevention and Control at ("State Act"), Section 25-7-138. C.R.S. Additional authority to promulgate emission control regulations for housed commercial swine feeding operations is set out in Section 25-7-109(8), C.R.S.

Purpose

Regulation Number 2, Part B was last revised in 2006. Due to the length of time since the rulemaking, the Division of Environmental Health and Sustainability conducted a routine review of Regulation Number 2, Part B and determined it would be appropriate to propose updates to the regulation to remove sections that are no longer applicable, including compliance dates that have already past. In addition, the Division proposes reducing the number of reporting periods from two times per year to one time in order to provide regulatory relief.

The Colorado Air Quality Control Commission (commission) concludes that the adoption of these regulatory revisions is an appropriate step to remove obsolete provisions, reduce reporting burdens for housed commercial swine feeding operations, and to clean up grammatical and typographical errors in the regulation.

Applicability

The commission has determined that the applicability of this regulation has not been modified by these changes.

Summary of Changes

Definitions

The definition of "Division" is revised to refer to the Division of Environmental Health and Sustainability, as it pertains to implementation of Regulation Number 2, Part B and not as defined in the commission's Common Provisions Regulation.

Technology Requirements for Process Wastewater Vessels and Impoundments

The commission removed references to the "on or before July 1, 1999" date for existing operations in IV.A.2., and IV.A.3., and Section IV.A.3.f., as it referred to experimental covers where comparable effectiveness information was to be submitted to the Division by no later than January 1, 2000. These dates are obsolete. Section IV.A.3.f. was reserved as a placeholder.

In the Section IV.B., Aerobic Impoundments for New Impoundments, the numbering was corrected to read IV.B.1.

Permit to Operate

In Section VI.A.1.a., the commission removed the deadline to submit a complete and accurate application by April 15, 1999, as this date has already past. The addition of "or modify as per Section VIII.A." was added for existing sources in Section VI.A.1.a., to provide greater clarity to what a permit modification as

specified in this section of the regulation. The reference to local or regional health department was revised in this section to read the county or district public health agency to accurately reflect the terminology for these entities. Content of Permit to Operate and Application for a Permit to Operate.

The commission removed the following sections from the regulation:

Section VI.D.2.a., as the deadline of July 1, 1999 identified for existing operations to have covers and related technologies installed or implement compliance schedules is past.

Section VI.D.8., referred to compliance schedules that were put in place when the regulation was first adopted. This section is no longer applicable.

Hearing and Public Comment Requirements

The commission removed Sections VI.E.1., and VI.E.3., as the language was past and no longer applicable. The language under the new Section VI.E.1., was revised to add that the public notice will be published on the Colorado Department of Public Health and Environment's website in addition to the publishing of the preliminary analysis and application in a newspaper of general distribution in the area in which the proposed operation will be located.

Specific Odor Control Requirements

The commission added the words, "as applicable" to Section IX.A.1.b.(2), as stakeholders identified that no bedding is used in most housed commercial swine feeding operations in Colorado.

Stakeholders requested that the word "promptly" in Section IX.A.1.b.(4), be replaced with the following specific terminology, "as specified in the Odor Management Plan".

Reporting Requirements

Since the promulgation of this regulation in 1999, regulated entities have been required to submit reports twice per year; the regulated entities have demonstrated high levels of compliance not only with the reporting requirements but also with the monitoring requirements of the regulation, therefore the Program proposed that reducing the reporting requirement to once per year will maintain the same level of environmental protection, while reducing both an undue administrative burden for the Division and provide some regulatory relief to the industry. The commission has determined that submitting two monitoring reports each year creates an undue regulatory burden on housed commercial swine feeding operations that can be addressed, while providing the same level of environmental protection by the submittal of one report each year. To this end, Section X.D.1.a., of Regulation Number 2, Part B was revised to require the submittal of one annual report of required monitoring versus every six months. Stakeholders requested the specificity of the deadline to submit the annual report "by February 15th of each year" be added to this section.

Enforcement

Two references in Section XI., to county or regional departments of health were revised to reflect the correct reference to these entities as a county or district public health agency.

Annual Fees

The same revision to the references in Section XII., to a county or district public health agency, as described above, was made in the Annual Fees section.

Environmental Leadership Program

The commission removed the information in Section XIII, the Environmental Leadership Program from the regulation as these provisions have not been used. In addition, the commission is aware of other stand-alone recognition programs offered by the department that can serve the same purpose for housed commercial swine feeding operations. The Section XIII. was reserved.

Federal Requirements

Regulation Number 2, Part B is a state-only rule.

Findings Pursuant to 25-7-110.8, C.R.S.

This rule revision is intended to reduce the regulatory and financial burden associated with the odor regulations for housed commercial swine feeding operations. It is otherwise administrative in nature, and is not intended to be more stringent than existing rule. Therefore, requirements of 25-7-110.8 do not apply to these revisions because these revisions do not establish new requirements intended to reduce air pollution.