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States' Nutrient Management Plans Statutes &
Regulations:

Mississippi



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States' Nutrient Management Plans Statutes & Regulations:
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MS Code § 49-17-29(2), (3)

MS Code § 49-17-34

MS Code of Rules 11-6-1.1.4(A)(4), (12)(C), (C), (H), (N)

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the Mississippi Joint Legislative Committee on Compilation, Revision and Publication of Legislation.

MS Code § 49-17-29. Permit Board; prohibitions; air and water permits; solid waste and hazardous permits; permit hearings; permit appeals.

(1)

(a) Except as in compliance with paragraph (b) of this subsection, it is unlawful for any person to cause pollution of the air in the state or to place or cause to be placed any wastes or other products or substances in a location where they are likely to cause pollution of the air. It is also unlawful to discharge any wastes, products or substances into the air of the state which exceed standards of performance, hazardous air pollutant standards, other emission standards set by the commission, or which reduce the quality of the air below the air quality standards or increments established by the commission or prevent attainment or maintenance of those air quality standards. Any such action is hereby declared to be a public nuisance.

(b) It is unlawful for any person to build, erect, alter, replace, use or operate any equipment which will cause the issuance of air contaminants unless that person holds a permit from the Permit Board (except repairs or maintenance of equipment for which a permit has been previously issued), or unless that person is exempted from holding a permit by a regulation promulgated by the commission. Concentrated animal feeding operations may be a source or a category of sources exempted under this paragraph. However, no new or existing applications relating to swine concentrated animal feeding operations within a county shall be exempted from regulations and ordinances which have been duly



passed by the county's board of supervisors and which are in force on June 1, 1998.

(2)

(a) Except as in compliance with paragraph (b) of this subsection, it is unlawful for any person to cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any waters of the state. It is also unlawful to discharge any wastes into any waters of the state which reduce the quality of those waters below the water quality standards established by the commission; or to violate any applicable pretreatment standards or limitations, technology-based effluent limitations, toxic standards or any other limitations established by the commission. Any such action is declared to be a public nuisance.

(b) It is unlawful for any person to carry on any of the following activities, unless that person holds a current permit for that activity from the Permit Board as may be required for the disposal of all wastes which are or may be discharged into the waters of the state, or unless that person is exempted from holding a permit by a regulation promulgated by the commission: (i) the construction, installation, modification or operation of any disposal system or part thereof or any extension or addition thereto, including, but not limited to, systems serving agricultural operations; (ii) the increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit; (iii) the construction, installation or operation of any industrial, commercial or other establishment, including irrigation projects or any extension or modification thereof or addition thereto, the operation of which would cause an increase in the discharge of wastes into the waters of the state or would otherwise alter the physical, chemical or biological properties of any waters of the state in any manner not already lawfully authorized; (iv) the construction or use of any new outlet for the discharge of any wastes into the waters of the state. However, no new or existing applications relating to swine concentrated animal feeding operations within a county shall be exempted from regulations and ordinances which have been duly passed by the county's board of supervisors and which are in force on June 1, 1998.

(3)

(a) Except as otherwise provided in this section, the Permit Board created by Section 49-17-28 shall be the exclusive administrative



body to make decisions on permit issuance, reissuance, denial, modification or revocation of air pollution control and water pollution control permits and permits required under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17), and all other permits within the jurisdiction of the Permit Board. After consideration of alternative waste treatment technologies available to control air and water pollution and odor, including appropriate siting criteria, the commission may promulgate regulations establishing conditions, limitations and exemptions under which the Permit Board shall make these decisions. Regulations promulgated by the commission which establish exemptions as authorized under this section shall apply to any applicable facility in operation on the effective date of that regulation and to any applicable facility constructed or operated after the effective date of that regulation. The Permit Board may issue multiple permits for the same facility or operation simultaneously or in the sequence that it deems appropriate consistent with the commission's regulations. Except as otherwise provided in this paragraph, the Permit Board, under any conditions that the board may prescribe, may authorize the Executive Director of the Department of Environmental Quality to make decisions on permit issuance, reissuance, denial, modification or revocation. The executive director shall not be authorized to make decisions on permit issuance, reissuance, denial, modification or revocation for a commercial hazardous waste management facility or a solid waste management permit for a municipal solid waste landfill or incinerator. A decision by the executive director shall be a decision of the Permit Board and shall be subject to formal hearing and appeal as provided in this section. The executive director shall report all permit decisions to the Permit Board at its next regularly scheduled meeting and those decisions shall be recorded in the minutes of the Permit Board. The decisions of the Permit Board shall be recorded in minutes of the Permit Board and shall be kept separate and apart from the minutes of the commission. The decision of the Permit Board or the executive director to issue, reissue, deny, modify or revoke permits shall not be construed to be an order or other action of the commission.

(b) The Executive Director of the Department of Environmental Quality shall also be the Executive Director of the Permit Board and shall have available to him, as Executive Director of the Permit Board, all resources and personnel otherwise available to him as executive director of the department.

(c) All persons required to obtain an air pollution control or water pollution control permit, a permit under the Solid Wastes Disposal



Law of 1974 (Title 17, Chapter 17) or any other permit within the jurisdiction of the Permit Board shall make application for that permit with the Permit Board. The Permit Board, under any regulations as the commission may prescribe, may require the submission of those plans, specifications and other information as it deems necessary to carry out Sections 49-17-1 through 49-17-43 and Title 17, Chapter 17, or to carry out the commission's regulations adopted under those sections. The Permit Board, based upon any information as it deems relevant, shall issue, reissue, deny, modify or revoke air pollution control or water pollution control permit or permits required under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17) or any other permit within the jurisdiction of the Permit Board under any conditions as it deems necessary that are consistent with the commission's regulations. The Permit Board's action of issuance, reissuance, denial, modification or revocation of a permit as recorded in its minutes shall constitute a complete decision of the board. All permits issued by the Permit Board shall remain in full force and effect until the board makes a final determination regarding any reissuance, modification, or revocation thereof. The Permit Board shall take action upon an application within one hundred eighty (180) days following its receipt in the board's principal office. No action which affects revocation of an existing permit shall take effect until the thirty (30) days mentioned in paragraph (4)(b) of this section has expired or until a formal hearing as prescribed in that paragraph is held, whichever is later.

(d) The Permit Board may adopt rules of practice and procedure governing its proceedings that are consistent with the commission's regulations. All hearings in connection with permits issued, reissued, denied, modified or revoked and all appeals from decisions of the Permit Board shall be as provided in this section.

(e) Upon any conditions that are consistent with the commission's regulations and subject to those procedures for public notice and hearings as provided by law, not inconsistent with federal law and regulations, the Permit Board may issue general permits and, where appropriate, may consolidate multiple permits for the same facility or operation into a single permit.

(f) The Permit Board shall not issue any permit for a new swine concentrated animal feeding operation or the expansion of an existing swine concentrated animal feeding operation before January 1, 2000, unless the department received the application for that operation's new or modified permit before February 28, 1998, or



except as provided in this paragraph (f). In issuing or modifying any permit for which the department received an application before February 28, 1998, the Permit Board shall apply those siting criteria adopted or used by the commission before February 28, 1998, unless federal law or regulations require more stringent criteria. The moratorium established in this paragraph shall not apply to the issuance of any permit for a new swine concentrated animal feeding operation or the expansion of an existing swine concentrated animal feeding operation that uses an animal waste management system which the applicant demonstrates to the Permit Board is innovative in significantly reducing the effects of the operation on the public health, welfare or the environment and which is approved by the Permit Board. The Permit Board shall not issue or modify more than five (5) permits under this innovative animal waste management system technology exemption to the moratorium.

(g) Each applicant for a permit for a new outlet for the discharge of wastes into the waters of the state who is required to obtain a certificate of public convenience and necessity from the Public Service Commission for such wastewater system shall submit financial and managerial information as required by the Public Utilities Staff. Following review of that information, the Executive Director of the Public Utilities Staff shall certify in writing to the executive director of the department, the financial and managerial viability of the system if the Executive Director of the Public Utilities Staff determines the system is viable. The Permit Board shall not issue the permit until the certification is received.

(4)

(a) Except as required by this section, before the issuance, reissuance, denial, modification or revocation of any air pollution control or water pollution control permit, permit required under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17) or any other permit within its jurisdiction, the Permit Board, in its discretion, may hold a public hearing or meeting to obtain comments from the public on its proposed action. Before the issuance, reissuance, denial, modification pertaining to the expansion of a facility, transfer or revocation of a permit for a commercial hazardous waste management facility or a solid waste management permit for a commercial municipal solid waste landfill or incinerator, the Permit Board shall conduct a public hearing or meeting to obtain comments from the public on the proposed action. That hearing or meeting shall be informal in nature and conducted under those procedures as the Permit Board may deem appropriate consistent with the commission's regulations.



(b) Within thirty (30) days after the date the Permit Board takes action upon permit issuance, reissuance, denial, modification or revocation, as recorded in the minutes of the Permit Board, any interested party aggrieved by that action may file a written request for a formal hearing before the Permit Board. An interested party is any person claiming an interest relating to the property or project which is the subject of the permit action, and who is so situated that the person may be affected by the disposition of that action.

The Permit Board shall fix the time and place of the formal hearing and shall notify the permittee of that time and place.

In conducting the formal hearing, the Permit Board shall have the same full powers as to subpoenaing witnesses, administering oaths, examining witnesses under oath and conducting the hearing, as is now vested by law in the Mississippi Public Service Commission, as to the hearings before it, with the additional power that the Executive Director of the Permit Board may issue all subpoenas at the instance of the Permit Board or at the instance of any interested party. Any subpoenas shall be served by any lawful officer in any county to whom the subpoena is directed and return made thereon as provided by law, with the cost of service being paid by the party on whose behalf the subpoena was issued. Witnesses summoned to appear at the hearing shall be entitled to the same per diem and mileage as witnesses attending the circuit court and shall be paid by the person on whose behalf the witness was called. Sufficient sureties for the cost of service of the subpoena and witness fees shall be filed with the Executive Director of the Permit Board at the time that issuance of the subpoena is requested. At a hearing, any interested party may present witnesses and submit evidence and cross-examine witnesses.

The Permit Board may designate a hearing officer to conduct the formal hearing on all or any part of the issues on behalf of the Permit Board. The hearing officer shall prepare the record of the formal hearing conducted by that officer for the Permit Board and shall submit the record to the Permit Board. Upon conclusion of the formal hearing, the Permit Board shall enter in its minutes the board's decision affirming, modifying or reversing its prior decision to issue, reissue, deny, modify or revoke a permit. The Permit Board shall prepare and record in its minutes findings of fact and conclusions of law supporting its decision. That decision, as recorded in its minutes with its findings of fact and conclusions of law, shall be final unless an appeal, as provided in this section, is taken to chancery court within twenty (20) days following the date the decision is entered in the board's minutes.

(c) Within twenty (20) days after the date the Permit Board takes action upon permit issuance, reissuance, denial, modification or



revocation after a formal hearing under this subsection as recorded in the minutes of the Permit Board, any person aggrieved of that action may appeal the action as provided in subsection (5) of this section.

(5)

(a) Appeals from any decision or action of the Permit Board shall be only to chancery court as provided in this subsection.

(b) Any person who is aggrieved by any decision of the Permit Board issuing, reissuing, denying, revoking or modifying a permit after a formal hearing may appeal that decision within the period specified in subsection (4)(c) of this section to the chancery court of the county of the situs in whole or in part of the subject matter. The appellant shall give a cost bond with sufficient sureties, payable to the state in the sum of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), to be fixed by the Permit Board and to be filed with and approved by the Executive Director of the Permit Board, who shall forthwith certify the filing of the bond together with a certified copy of the record of the Permit Board in the matter to the chancery court to which the appeal is taken, which shall thereupon become the record of the cause. An appeal to the chancery court as provided in this section shall not stay the decision of the Permit Board. The aggrieved party may, within twenty (20) days following the date the board's decision after a formal hearing is entered on the board's minutes, petition the chancery court for an appeal with supersedeas and the chancellor shall grant a hearing on that petition. Upon good cause shown, the chancellor may grant that appeal with supersedeas. If granted, the appellant shall be required to post a bond with sufficient sureties according to law in an amount to be determined by the chancellor. Appeals shall be considered only upon the record as made before the Permit Board. The chancery court shall always be deemed open for hearing of an appeal and the chancellor may hear the same in termtime or in vacation at any place in the chancellor's district, and the appeal shall have precedence over all civil cases, except election contests. The chancery court shall review all questions of law and of fact. If no prejudicial error is found, the matter shall be affirmed. If prejudicial error is found the decision of the board shall be reversed and the chancery court shall remand the matter to the Permit Board for appropriate action as may be indicated or necessary under the circumstances. Appeals may be taken from the chancery court to the Supreme Court in the manner as now required by law, except that if a supersedeas is desired by the party appealing to the chancery



court, that party may apply for a supersedeas to the chancellor of that court, who shall award a writ of supersedeas, without additional bond, if in the chancellor's judgment material damage is not likely to result thereby; but otherwise, the chancellor shall require a supersedeas bond as the chancellor deems proper, which shall be liable to the state for any damage.

MS Code § 49-17-34. Air and water permits; applications; rules, regulations and standards; administrative procedures.

(1) Within fifteen (15) days after receipt by the Department of Environmental Quality an application for any initial or modified air or water permit required under the Mississippi Air and Water Pollution Control Law that is submitted after April 16, 1993 the Department of Environmental Quality shall acknowledge in writing receipt of such application. Except for good cause shown, within forty-five (45) days after receipt of a permit application, the Department of Environmental Quality shall notify the applicant that the application is complete or of the major components required to complete the application.

(2) All rules, regulations and standards relating to air quality, water quality or air emissions or water discharge standards promulgated by the commission after April 16, 1993 shall be consistent with and shall not exceed the requirements of federal statutes and federal regulations, standards, criteria and guidance relating to air quality, water quality or air emission or water discharge standards that have been duly promulgated pursuant to the federal Administrative Procedures Act, including but not limited to the identity and scope of air pollutants included as air toxics or air quality or emission standards, the identity and scope of water pollutants included as water quality or discharge standards and the numerical and narrative limitations of such standards.

(3) If there are no federal statutes or federal regulations, standards, criteria or guidance that have been duly promulgated pursuant to the federal Administrative Procedures Act addressing matters relating to air quality or water quality, or air emission or water discharge standards, the commission may promulgate regulations to address these matters in accordance with the Mississippi Administrative Procedures Act, when the commission determines that such regulations are necessary to protect human health, welfare or the environment.

(4) For any initial or modified air or water permit issued from and after January 1, 1994, except with the written consent of the permit applicant, no provision or condition imposing any duty, responsibility or liability on



the permittee shall be included in such permit, the direct basis for which has not been first promulgated as a regulation by the commission in accordance with the requirements of the Mississippi Administrative Procedures Act. “Direct basis” shall mean that such permit provisions or conditions shall not exceed the scope, coverage and effect of the regulation upon which it is based including, but not limited to, frequency or time limit of action, technology, identity and scope of pollutants regulated, numerical or narrative standards or limitations.

MS Code of Rules 11-6-1.1.4. Terms and Conditions Applicable to Permits.

A. All Permits, Unless Otherwise Noted in These Regulations or in Federal Regulations Referenced Herein:

(1) Prohibitions

A permit shall not be issued when any of the prohibitions contained in 40 CFR 122.4 as of the date the permit is issued which is incorporated herein and adopted by reference, are applicable.

(2) Duty to Comply

The permit conditions applicable to all permits contained in 40 CFR 122.41(a)(1), 144.51 and 144.52 as of the date the permit is issued are incorporated herein and adopted by reference.

(3) Permit Conditions and Limitations

The Permit Board shall establish permit conditions and limitations pursuant to 40 CFR 122.43 and 122.44 as of the date the permit is issued, which sections are incorporated herein and adopted by reference. The Permit board shall also require additional or more stringent requirements than promulgated effluent limitations guidelines or standards under Sections 301, 304, 306, 307, 318, and 405 of the Federal Act necessary to:

(a) Achieve water quality standards established under Section 303 of the Federal Act, including State narrative criteria for water quality.

(1) Limitations must control all pollutants or pollutant parameters (either conventional, non-conventional, or toxic pollutants) which the Permit Board determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion from any State water quality standard,



including State narrative criteria for water quality. The permittee may utilize testing procedures for the analysis of pollutants set forth in 40 CFR 122, 136, 141, 143, 430, 455, 465, and 503 which are incorporated herein and adopted by reference.

(2) When determining whether a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion from a narrative or numeric criteria within a State water quality standard, the Permit Board shall use procedures which account for existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity), and where appropriate, the dilution of the effluent in the receiving water.

(3) When the Permit Board determines, using the procedures in A.3.a.(2) of this Rule, that a discharge causes, has the reasonable potential to cause, or contributes to an instream excursion above the allowable ambient concentration of a State numeric criteria within a State water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant.

(4) When the Permit Board determines, using the procedures in A.3.a.(2) of this Rule, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the numeric criterion for whole effluent toxicity, the permit must contain effluent limits for whole effluent toxicity.

(5) Except as provided in this subparagraph, when the Permit Board determines, using the procedures in A.3.a.(2) of this Rule, toxicity testing data, or other information, that a discharge causes, has the reasonable potential to cause, or contributes to an instream excursion above a narrative criterion within an applicable State water quality standard, the permit must contain effluent limits for whole effluent toxicity. Limits on whole effluent toxicity are not necessary where the Permit Board demonstrates in the fact sheet or statement of basis of the NPDES permit, using the procedures in A.3.a.(2) of this Rule, that chemical-



specific limits for the effluent are sufficient to attain and maintain applicable numeric and narrative State water quality standards.

(6) Where the State has not established a water quality criterion for a specific chemical pollutant that is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion within an applicable State water quality standard, the Permit Board must establish effluent limits using one or more of the following.

(i) Establish effluent limits using a calculated numeric water quality criterion for the pollutant which the Permit Board demonstrates will attain and maintain applicable narrative water quality criteria and will fully protect the designated use. Such a criterion may be derived using a proposed State criterion, or an explicit State policy or regulation interpreting its narrative water quality criterion, supplemented with other relevant information which may include; EPA's Water Quality Standards Handbook, 2nd Edition September 1993, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration, and current EPA criteria documents.

(ii) Establish effluent limits on a case-by-case basis, using EPA's water quality criteria, published under Section 307(a) of the Federal Act, supplemented where necessary by other relevant information.

(iii) Establish effluent limitations on an indicator parameter for the pollutant of concern, provided:

(A) the permit identifies which pollutants are intended to be controlled by the use of the effluent limitation;

(B) the fact sheet required by 40 CFR 124.56 sets forth the basis for the limit, including a finding that compliance with the effluent limit on the indicator parameter will result in controls on the pollutant of



concern which are sufficient to attain and maintain applicable water quality standards;

(C) the permit requires all effluent and ambient monitoring necessary to show that during the term of the permit the limit on the indicator parameter continues to attain and maintain applicable water quality standards; and

(D) the permit contains a reopener clause allowing the Permit Board to modify or revoke and reissue the permit if the limits on the indicator parameter no longer attain and maintain applicable water quality standards.

(7) When developing water quality based effluent limits under this paragraph the Permit Board shall ensure that:

(i) the level of water quality to be achieved by limits on point sources established under this paragraph is derived from, and complies with all applicable water quality standards; and

(ii) effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7.

(b) Attain or maintain a specified water quality through water quality related effluent limits established under section 302 of the Federal Act;

(c) Conform to the conditions of a State certification under section 401 of the Federal Act that meets the requirements of 40 CFR 124.53 when EPA is the permitting authority. If a State certification is stayed by a court of competent jurisdiction or an appropriate State board or agency, EPA shall notify the State that the agency will deem certification waived unless a finally effective State certification is received within sixty days from the date of the notice. If the State does not forward a finally effective certification within the sixty day period, EPA shall include



conditions in the permit that may be necessary to meet EPA's obligation under section 301(b)(1)(C) of the Federal Act;

(d) Conform to applicable water quality requirements under Section 401(a)(2) of the Federal Act when the discharge affects a state other than the certifying state;

(e) Incorporate any more stringent limitations, treatment standards, or schedule of compliance requirements established under federal or State law or regulations in accordance with section 301(b)(1)(C) of the Federal Act;

(f) Ensure consistency with the requirements of a Water Quality Management plan approved by EPA under Section 208(b) of the Federal Act;

(g) Incorporate Section 403(c) criteria under part 125, subpart M, for ocean discharges;

(h) Incorporate alternative effluent limitations or standards where warranted by "fundamentally different factors", under 40 CFR part 125, D;

(i) Incorporate any other appropriate requirements, conditions, or limitations (other than effluent limitations) into a new source permit to the extent allowed by the National Environmental Policy Act, 42 U.S.C. 4321, et seq. and Section 511 of the Federal Act, when EPA is the permit issuing authority. (See 40 CFR 122.29(c)).

(4) When applicable, a permit issued by the Permit Board shall contain terms and conditions deemed necessary or appropriate by the Permit Board to insure compliance with at least the following effluent standards and limitations:

(a) Effluent limitations for publicly owned treatment works and other discharges, including indirect discharges, when promulgated by the Administrator of EPA pursuant to Sections 204(b), 301, 302, 303, and 307 of the Federal Act, in accordance with and subject to the date of compliance prescribed therein, if the limitations are not in conflict with the State law or the Federal Act.

(b) Standards of performance when promulgated by the Administrator of EPA, for new sources within the categories defined in Section 306 of the Federal Act.



(c) If the permit is for a discharge from a publicly owned treatment works, standards of performance, pretreatment standards or effluent limitations or prohibitions when promulgated by the Administrator of EPA for toxic substances, monitoring and charges pursuant to Sections 204(b), 307, and 308 of the Federal Act. Toxicity screening and limitations shall be established in accordance with Rule 1.1.2 of these regulations.

(d) Any other more stringent limitation deemed necessary by the Permit Board to meet applicable water quality standards, treatment standards or schedules of compliance established pursuant to the State law or regulations promulgated pursuant thereto, or necessary to meet other Federal law or regulations enacted or promulgated subsequent to this regulation, or required to meet any applicable water quality standards including applicable requirements necessary to meet Total Maximum Daily Loads established by and incorporated into the State's continuing planning process required pursuant to Section 303 of the Federal Act.

(e) The conditions regarding reissued permits contained in 40 CFR 122.44(l) are incorporated herein and adopted by reference.

(f) The effluent limitations promulgated by EPA pursuant to Sections 301, 302, 303, 306, and 307 of the Federal Act shall become immediately enforceable as if a duly promulgated regulation of the Commission.

(5) Consistency with Water Quality Standards

When a State or an NPDES permit issued by the Permit Board contains any effluent standards or limitations set forth in 1.1.4.A.3. and 4. of this Rule, the Permit Board shall verify that the discharge authorized by the issued permit will not violate applicable water quality standards. When a permit contains additional effluent limitations based upon applicable water quality standards, the Permit Board staff shall prepare a wasteload allocation ensuring that the discharge authorized by the issued permit is consistent with applicable water quality standards, 40 CFR 122.44(a)-(d) (which are incorporated herein and adopted by reference) and Rule 1.1.2 of these regulations.

(6) Requirements to Comply with Plans

The Permit Board, if it deems necessary, may impose any further requirements under the terms and conditions of a State, UIC, or



NPDES permit to comply with an area-wide waste treatment management plan, or amendments thereto, prepared by a management agency pursuant to Section 208(b) of the Federal Act, or a facilities plan prepared in accordance with Title II or Title VI of the Federal Act.

(7) Interim Requirements

Prior to promulgation of regulations by the Administrator of EPA relating to applicable effluent standards or limitations or standards of performance set forth in Rule 1.1.4.A.3, the Permit Board may impose any standard, limitation or condition within the State or NPDES permit to ensure compliance with the State law and the Federal Act.

(8) Calculating and Determining Permit Limits

The permit shall contain conditions calculated in accordance with 40 CFR 122.45, which is incorporated herein and adopted by reference. When issuing a State, UIC, or NPDES permit pursuant to the State law and this regulation, the Permit Board shall specify therein, where applicable, average and maximum daily quantitative limitations for the level of wastewater constituents in the authorized discharge in terms of weight and, if appropriate, average or maximum concentration limits.

(9) Schedules of Compliance

(a) A person issued a State, UIC, or NPDES permit by the Permit Board pursuant to Rule 1.1.3.H and who is not in compliance with applicable effluent standards and limitations or other requirements contained therein at the time the permit is issued, shall be required to achieve compliance within a period of time as set forth by the Permit Board, with effluent standards and limitations, with water quality standards, or with specific requirements or conditions set by the Permit Board. The Permit Board shall require compliance with terms and conditions of the permit in the shortest reasonable period of time. For UIC permits, this time shall not exceed three (3) years.

(b) If a time schedule for compliance specified in a State, UIC, or NPDES permit which is established by the Permit Board pursuant to Rule 1.1.4.A.9.a above exceeds one year, the time schedule shall provide for interim target dates for compliance with selected terms and conditions of the permit. Each interim target date specified in the permit shall not exceed one year.



(c) A discharger who fails or refuses to comply with either an interim or final date of compliance specified in a State, UIC, or NPDES permit may be deemed by the Commission to be in violation of the permit and may be subject to enforcement action prescribed in the State law or this regulation.

(d) Unless otherwise provided in these regulations, the total length of time for the following to be accomplished shall not exceed three years:

(1) the determination that a particular limit is needed,

(2) the length of a compliance schedule to achieve that limit, and

(3) any instream or other study to determine an alternative limit or water quality criterion

(e) An NPDES permit may, when appropriate, specify a schedule of compliance leading to compliance with the Federal Act and regulations in accordance with 40 CFR 122.47 which is incorporated herein and adopted by reference.

(10) Compliance Schedule Reports by Dischargers

Within 14 days after either an interim or final date of compliance specified in a State, UIC, or NPDES permit, a permittee shall provide the Permit Board with written notice of his compliance or noncompliance with the requirements or conditions specified to be completed by that date. Failure to submit the written notice to the Permit Board shall be considered a violation of the compliance requirements of the permit, for which the Commission may be asked to take enforcement action.

(11) Closure Requirements

When issuing a State or NPDES permit pursuant to the State law and this regulation, the Permit Board shall require submittal of a Closure Plan.

(a) no later than 90 days prior to abandonment and

(b) within 90 days of decommissioning the treatment works.

The Closure Plan shall address how and when all manufactured products, by-products, raw materials, stored chemicals, and solid and liquid waste and residues will be removed from the premises so that no potential environmental hazard to the waters of the State will be presented.



(12) Spill Prevention and Best Management Plans

(a) For facilities which have bulk storage of materials (including but not limited to, all raw, finished and/or waste material), the permit shall contain terms and conditions necessary to prevent the potential release of these materials and storm water contaminated with these materials. Such requirements may include the requirements for a Spill Prevention Control and Countermeasures Plan or a Best Management Plan. For those facilities that have above ground bulk storage not subject to Hazardous Waste Management Regulations or 40 CFR 112 (Oil Pollution Prevention) regulations, secondary containment or equivalent protective measures must be provided for storage of materials and/or liquids with chronic or acute potential for pollution impact on waters of the State regardless of whether it is a raw material, product, waste, or by-product. Secondary containment requirements as found in 40 CFR 112 (for petroleum products), which is incorporated herein and adopted by reference, shall be utilized for these non-petroleum facilities unless an equivalent amount of protection may be provided by measures including trenches or waterways which would conduct any tank releases to a permitted treatment system or sufficient equalization or treatment capacity needed to prevent chronic/acute pollution impact.

(b) Tank Systems with High Potential for Pollution Impact.

The Permit Board may require permits to contain secondary containment or other engineering practices for tank systems with chronic or acute potential for pollution impact on waters of the State.

(c) The Permit Board may require the development of, and approval of, Best Management Practices Plans addressing any activity at a facility which may impact the environment or compliance with the permit.

(d) Notwithstanding anything in this section to the contrary, the Permit Board may require a facility that has above ground storage of liquids and/or materials with the potential to cause chronic or acute pollution impact on waters of the State (which are not subject to Hazardous Waste Management Regulations or 40 CFR 112 [Oil Pollution Prevention] regulations) to provide either secondary containment or demonstrate an equivalent



amount of protection from discharge of pollutants in amounts which have the potential to cause chronic or acute pollution impact if such secondary measures are necessary to protect human health, welfare or the environment.

(13) Compliance with Permit Conditions

All discharges authorized by the permit shall be consistent with the terms and conditions of the permit and the permittee shall make all reasonable efforts to meet any interim or final dates for compliance specified therein.

(14) Facility Expansion and/or Modification

Any facility expansion, production increases, process modifications, changes in discharge volume or location or other changes in operations or conditions of the permittee which may result in a new or increased discharge of waste, shall be reported to the Permit Board by submission of a new application for a permit pursuant to Rule 1.1.2.A., or if the discharge does not violate effluent limitations specified in the permit, by submitting to the Permit Board a notice of a new or increased discharge.

(15) Reporting Requirements

(a) Planned changes. The permittee shall give notice to the Permit Board as soon as possible of any planned physical alterations or additions, including but not limited to, a change of operation to the permitted facility. Notice is required in the circumstances that follow:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether the facility is a new source in 40 CFR 122.29(b);

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to either effluent limitations in the permit or notification requirements under 40 CFR 122.42(a)(1); or

(3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during



the permit application process or not reported pursuant to an approved land application plan.

(b) Anticipated noncompliance. The permittee shall give advance notice to the Permit Board of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Monitoring reports. Monitoring results shall be reported at the intervals specified in the permit.

(1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) and/or forms provided or specified by the Permit Board for reporting results of monitoring of sludge use or disposal practices.

(2) If the permittee monitors any pollutant as prescribed in the permit more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Permit Board.

(3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Permit Board in the permit.

(16) Duty to Provide Information

The permittee shall furnish to the Permit Board, within a reasonable time, any information which the Permit Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. The permittee shall also furnish to the Permit Board upon request, copies of records required to be kept by the permit.

(17) Inspection and Entry

The permittee shall allow any authorized Commission representative to enter upon the permittee's premises at any reasonable time, to have access to and copy any applicable records, to inspect process facilities, treatment works, monitoring methods or equipment or to take samples, as authorized by Section 49-17-29 of the Code. In the



event of investigation during an emergency response action, a reasonable time shall be any time of the day or night. Follow-up investigations subsequent to the conclusion of the emergency event shall be conducted at reasonable times.

(18) Proper Operation, Maintenance and Replacement

The permittee shall at all times properly operate, maintain, and when necessary, promptly replace all facilities and systems of collection, treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. Proper replacement includes maintaining an adequate inventory of replacement equipment and parts for prompt replacement when necessary to maintain continuous collection and treatment of wastewater. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. The Permit Board may require regular reporting of internal operational and maintenance parameters necessary to confirm proper operation of a waste treatment system.

(19) Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of the permit.

(20) Bypass

The terms and conditions regarding bypass contained in 40 CFR 122.41(m) are incorporated herein and adopted by reference.

(21) Removed Substances

Solids, sludges, filter backwash, or other residuals removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent such materials from entering state waters and in a manner consistent with the Mississippi Solid Waste Disposal Act, the Federal Resource Conservation and Recovery Act, and the Mississippi Water Pollution Control Act.

(22) Power Failure



If electric power is required, in order to maintain compliance with the conditions and prohibitions of the permit, the permittee shall either:

- (a) Provide an alternative power source to operate the wastewater control facilities; or, if such alternative power source is not in existence and no date for its implementation appears in the permit,
- (b) Halt, reduce, or otherwise control production and/or all wastewater flows upon reduction, loss, or failure of the primary source of power to the wastewater control facilities.

(23) Oil and Hazardous Substance Liability

Nothing in a permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under Section 311 of the Federal Act or the applicable provisions under Mississippi law pertaining to the transportation, storage, treatment, or spillage of oil or hazardous substances.

(24) Civil and Criminal Liability

- (a) Any person who violates a term, condition or schedule of compliance contained within the permit or the Mississippi Water Pollution Control Law is subject to the actions defined by law.
- (b) Except as provided in permit conditions on "Bypassing" and "Upsets" (A.20 and 27 of this Rule) nothing in a permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.
- (c) It shall not be the defense of the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(25) Severability

The provisions of a permit are severable. If any provision of a permit, or the application of any provision of a permit to any circumstances, is challenged or held invalid, the validity of the remaining permit provisions and/or portions thereof or their application to other persons or sets of circumstances, shall not be affected thereby.

(26) Compliance with Toxic Effluent Standards



The permittee shall comply with any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) established under Section 307(a) of the Federal Act. The permittee shall comply with the applicable provisions of 40 CFR 122.42, which are incorporated herein and adopted by reference.

(27) Upsets

Facilities which experience upset conditions shall meet the conditions of 40 CFR 122.41(n), which is incorporated herein and adopted by reference, as follows:

(a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of 1.1.4.A.27.c. of this Rule are met. Any determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, shall not constitute a final administrative action subject to judicial review.

(c) Conditions necessary for demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:

- (1) an upset occurred and that the permittee can identify the cause(s) of the upset;
- (2) the permitted facility was at the time being properly operated;
- (3) the permittee submitted notice of the upset as required in 40 CFR 122.41(L)(6)(ii)(B) (24-hour notice of noncompliance); and



(4) the permittee complied with any remedial measures required under 40 CFR 122.41(d) (duty to mitigate).

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

(28) Monitoring of Discharges Authorized by All Permits: Requirements

(a) The Permit Board may prescribe monitoring requirements for any discharge authorized by a State, UIC, or NPDES permit issued pursuant to this regulation. A State, UIC, or NPDES permit issued pursuant to this regulation may be subject to such monitoring requirements as may be reasonably required by the Permit Board to determine compliance with permit conditions or State Water Quality Criteria. Such monitoring may include the discharge point, instream monitoring, and, include the installation, use, and maintenance of monitoring equipment or methods including, where appropriate, biological monitoring methods. Ambient instream monitoring may be required by the Permit Board to assure that WQBELs are protective of State water quality criteria through consideration of factors, including, but not limited to, the following:

- (1) variance to any water quality criteria,
- (2) the complexity of the receiving water body,
- (3) magnitude and impact or potential impact of the discharge,
- (4) amount of available data, and
- (5) aquatic life and human health concerns.

The Permit Board will normally require the applicant/permittee to provide the necessary information.

(b) The Regional Administrator (or his/her designee) may require monitoring requirements for reporting and recording of monitoring results contained in 40 CFR 122.48 which are incorporated herein and adopted by reference.

(c) A discharge authorized by an NPDES permit which the Regional Administrator (or his/her designee) by written request to the Executive Director, requires to be monitored or which contains toxic waste constituents for which an effluent



standard or limitation has been established by the Administrator of EPA pursuant to Section 307(a) of the Federal Act, shall be monitored by the permittee for any or all of the following:

- (1) The measurement of the discharge in gallons per day or other units specified by the Permit Board.
- (2) Waste constituents subject to reduction or elimination under the terms and conditions of the permit.
- (3) Specific waste constituents which are determined by the Permit Board to have a significant effect on the quality of the water of the State.
- (4) Waste or wastewater constituents specified as subject to monitoring by the Administrator of EPA in regulations promulgated pursuant to the Federal Act.
- (5) Any other specific waste constituents which the Regional Administrator (or his/her designee) may request in writing to be monitored.

(d) Test procedures for the analysis of pollutants shall conform to regulations published pursuant to Section 304(h) of the Federal Water Pollution Control Act, as amended.

(e) Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored wastewater.

(f) The frequency of monitoring of a waste discharge required to be monitored pursuant to this regulation shall be specified in a State, UIC, or NPDES permit when issued, except that the Permit Board at any time may require additional monitoring for purposes of determining compliance by so notifying the permittee in writing.

(g) The requirements regarding the disposal of pollutants into wells, into publicly owned treatment works or by land application contained in 40 CFR 122.50 are incorporated herein and adopted by reference.

(29) Monitoring of Discharges Authorized by All Permits: Recording and Reporting

(a) A permittee required to monitor a waste discharge pursuant to Rule 1.1.4.A.28 shall maintain records of all



information obtained from such monitoring, including the date, place and time of sampling; the dates analyses were performed; the person performing the analyses; the analytical techniques, procedures or methods used; and the results of such analyses. All records and results of monitoring activities, including calibration and maintenance records, shall be retained by the permittee a minimum of three (3) years unless otherwise required or extended by the Permit Board, copies of which shall be furnished to the Department upon request. Except for data determined to be confidential under the Mississippi Air and Water Pollution Control Law, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department.

(b) The Permit Board may require a permittee to report periodically the results of all required monitoring activities undertaken by the permittee on an appropriate reporting form supplied by the Permit Board. The Permit Board shall notify the permittee of the frequency of reporting. For State permits and NPDES permits, the monitoring frequency shall not be less than once/year and for Pretreatment permits, the frequency shall not be less than twice/year.

(c) Upon written request of the Regional Administrator (or his/her designee), the Executive Director shall transmit any reporting form or other monitoring information required by this regulation.

(d) Any permittee who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required by the Permit Board to be maintained as a condition in a permit, or who alters or falsifies the results obtained by such devices or methods and/or any written report required by or in response to a permit condition, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for a violation of a permit condition pursuant to Section 49-17-43 of the Code.

(e) Twenty-four hour reporting.

(1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5



days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and/or prevent recurrence of the noncompliance.

(2) The following shall be included as information which must be reported within 24 hours under this paragraph.

(i) Any unanticipated bypass which exceeds any effluent limitation in the permit.

(ii) Any upset which exceeds any effluent limitation in the permit.

(iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Permit Board in the permit to be reported within 24 hours.

(3) The Executive Director may waive the written report on a case-by-case basis for reports under paragraph (e).(2) of this rule if the oral report has been received within 24 hours.

(f) Other noncompliance. The permittee shall report all instances of noncompliance not reported under A.29.e. of this Rule, at the time monitoring reports are submitted or within 30 days from the end of the month in which the noncompliance occurs. The reports shall contain the information listed in A.29.(e)(1) of this Rule.

(g) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Permit Board, it shall promptly submit such facts or information.

(30) Testing Procedures for the Analysis of Pollutants for All Permits

Testing procedures include those set forth in 40 CFR 136 which is incorporated herein and adopted by reference or alternative procedures approved and/or promulgated by EPA.



B. State Permits Issued to a POTW or NPDES Permits Issued to a POTW

A State no discharge permit to a POTW or an NPDES permit for a discharge from a POTW shall contain notification requirements as follows:

- (1) Any new introduction of waste or wastewater constituents into the treatment works from a source which would be a new source as defined in Section 306 of the Federal Act if the source were discharging waste constituents.
- (2) Except as to particular categories and classes of point sources or discharges specified by the Permit Board, any new introduction of waste constituents into the treatment works from a source which would be subject to Section 301 of the Federal Act if the source were discharging waste constituents.
- (3) Any substantial change in volume or character of waste constituents being introduced into such treatment works by a source discharging waste into the treatment works at the time of issuance of a permit.
- (4) All new requests for
 - (a) connecting to the POTW's collection system or
 - (b) direct discharge into the treatment system if the new connection/discharge is for industrial non-sanitary wastewater or for any discharge in excess of 25,000 gpd.

C. General Requirements Applicable to State Permits Issued to Concentrated Animal Operations or NPDES Permits Issued to Concentrated Animal Feeding Operations

As part of the conditions for issuance and reissuance of a wastewater treatment permit for concentrated animal feeding operations, the following shall be applicable:

- (1) All animal feedlots, Grade A dairies, poultry operations with 9,000 or more birds, swine operations with 10 or more sows or 50 or more swine, which have been constructed, enlarged or significantly altered after August 15, 1979, or any other animal confinement causing pollution of waters of the State or Grade A dairies needing to reapply to the State Health Department for reissuance of a revoked Health Department permit shall obtain a permit pursuant to these regulations.
- (2) Facilities built before August 15, 1979, are not automatically required to obtain a permit. However, any facility that causes pollution of waters of the state, or places or causes to be placed any wastes in a



location where they are likely to cause pollution of any waters of the state or operates a wastewater treatment or disposal system may be required to obtain a permit or coverage under a general permit.

(3) All facilities that perform concentrated animal feeding operations that meet the federal regulatory requirements of 40 CFR 122.23 shall submit an application prescribed by the Commission, and shall be issued, upon concurrence by the Permit Board, an NPDES Permit in accordance with 40 CFR 122.23.

(4) All facilities that perform concentrated animal feeding operations that do not meet the federal regulatory requirement of 40 CFR Part 122.23 shall submit a treatment design worksheet from the Soil Conservation Service or other approvable waste disposal system design. Said design and request for site inspection shall constitute an application for an animal waste disposal permit or for coverage under a general permit.

(5) The Department shall perform a site inspection prior to presenting the application for consideration to the Permit Board or granting coverage under a general permit. The inspection will determine compliance with siting criteria set forth in Rule 1.1.1.C.2.

(6) At reissuance, all facilities shall demonstrate that their wastewater treatment facility satisfies the original design capacity.

(7) General permits may be developed for concentrated animal operations.

D. State No Discharge Permit Issued to a Domestic Wastewater Treatment Facility with a Capacity of 1500 Gallons per Day or Less or NPDES Permits Issued to a Domestic Wastewater Treatment Facility with a Capacity of 1500 Gallons per Day or Less:

As part of the conditions for issuing and/or reissuing a wastewater treatment permit for domestic wastewater treatment facilities of 1500 gpd or less, the following shall be applicable:

(1) Aerobic mechanical treatment plants to be used in this State must meet the current revision of American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard No. 40 requirements for Class I plants and be listed by the Mississippi State Department of Health in accordance with Miss. Code Ann. § 41-67-10, which is incorporated herein and adopted by reference.



(2) The following requirements shall be standard conditions for these permits.

(a) All aerobic mechanical plants and subsurface systems must be installed by a professional engineer registered in Mississippi or a person who holds a license from the Mississippi State Department of Health pursuant to Miss. Code Ann. § 41-67-25, as amended, which is incorporated herein and adopted by reference.

(b) All aerobic mechanical plants must be adequately inspected at a frequency as specified in the permit, by an individual holding a Mississippi Wastewater Operators Certificate. The owner of the mechanical plant must provide a copy of the inspection report to the State, along with a description of corrective actions taken if such actions were needed. Alternatively, the owner may have such inspections and reports completed by an authorized and trained representative of the mechanical plant manufacturer.

E. Administration of State General Permits and NPDES General Permits

(1) Any facility and/or discharger covered or eligible to be covered under a general permit may be required to obtain an individual State or NPDES permit at the discretion of the Permit Board. Any interested person may petition the Permit Board to take action under this paragraph.

(2) Any facility and/or discharger covered by a State general permit or an NPDES general permit may request to be excluded from such coverage by applying for an individual State or NPDES permit. The applicability of the general permit is automatically terminated upon issuance of an individual permit.

(3) Any facility and/or discharger excluded from coverage under a general permit solely because it is already covered under an individual State or NPDES permit may request that the individual permit be revoked and that it be covered by the general permit. If coverage under the general permit is to be approved, the Permit Board or its designee may revoke the individual permit and issue coverage under the general permit simultaneously.

F. NPDES Permits Only

An NPDES permit shall contain the following:

(1) Reopener Clause. The permit shall be modified, or alternately, revoked and reissued, to comply with any applicable effluent standard, limitation or storm water regulation issued or approved



under Section 301(b)(2)(C), and (D), 304(b)(2), 307(a)(2), and 402(p) of the Federal Act if the effluent standard, limitation, or regulation so issued or approved:

(a) contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or

(b) controls any pollutant not limited in the permit.

(2) Point Source Discharges: Standards of Performance.

(a) Any new source subject to an NPDES permit which meets the applicable effluent new source standards of performance as required by the Federal Act, the State law or this regulation, shall not be subject to any more stringent standard of performance for any wastewater constituent during a 10-year period beginning on the date of completion of construction or during the period of depreciation or amortization of the facility for the purpose of Sections 167 and 169, or both, of the Internal Revenue Code of 1954, whichever period ends first.

(b) The protection from more stringent standards of performance afforded by subparagraph a. of this rule does not apply to conditions based upon water quality standards, or to toxic effluent standards or prohibitions under Section 307(a) of the Federal Act, or to any other toxic pollutants or hazardous substances not controlled by standards of performance.

(3) Permit Requirements for NPDES Permits: Criteria Standards.

The criteria standards for NPDES permits found in 40 CFR 125, subparts A, B, D, G, H, I, J, M, N, and 40 CFR 129, 133 are incorporated herein and adopted by reference.

(4) The additional conditions applicable to specified categories of NPDES permits contained in 40 CFR 122.42 are incorporated herein and adopted by reference.

G. NPDES Mineral Mining and Processing Permits

As part of the conditions for issuing a wastewater treatment permit for mineral mining and processing, the following shall be applicable:

(1) A site inspection shall be performed by the Department to ensure compliance with siting criteria set forth in Rule 1.1.1.C.2.



(2) The applicant shall demonstrate to the Permit Board it has obtained or filed complete applications for necessary storm water permits or coverages and for mining permits (through the Office of Geology). Failure to obtain or submit complete applications for those permits or coverages shall constitute grounds for denial of the NPDES mineral mining and processing permit.

(3) Structural Integrity.

(a) Any lagoon, sedimentation pond, or dredge pit must have an emergency discharge structure installed at least 24 inches above the normal operating fluid level, said discharge structure being at least 24 inches below the lowest point on the top of the containment dike.

(b) Dikes and any other appurtenant structures must be constructed utilizing accepted engineering designs, standards, methodologies and materials. A professional engineer registered in the State of Mississippi shall certify the adequacy of construction.

(c) Dikes shall be maintained in good working order at all times. There shall be no leaks through dikes. Any damaged dike shall be replaced or repaired immediately upon discovering any deficiency. All earthen dikes shall be maintained with adequate cover, such that the effects of erosion are minimized.

(d) The permittee shall develop and maintain a daily inspection log for the facility. This log should include, but not be limited to, the following; condition of all dikes, observance of the area around the dikes to indicate any water pollution problems and the volume of wastewater accumulating within the dike. The date, time and person making the inspection should also be included in this log.

(4) Sand and Gravel Permits. Special Conditions.

When a mining activity is adjacent to a stream, a buffer zone shall be maintained between the edge of the mining activity and the highest point of the top bank of the stream. The buffer zone widths shall be the same as those set forth in Rule 1.3.4.C.3.(a)(1), (2) and (3). The buffer zone shall not be disturbed by any of the facility's activities.

H. NPDES Animal Waste Permits Only



An NPDES animal waste permit shall contain the following (in addition to the requirements set forth in C. of this Rule):

(1) Releases in Excess of the 25-year, 24-hour Storm Event.

Process waste pollutants in the overflow may be discharged to waters of the U.S. whenever rainfall events, either chronic or catastrophic, cause an overflow of process waste water from a facility designed, constructed and operated to contain all process generated waste waters plus the runoff from a 25-year, 24-hour rainfall event for the location of the point source. There shall be no effluent limitations on discharges from detention structures constructed and maintained to contain the 25-year, 24-hour storm event if the discharge is the result of a rainfall event which exceeds the design capacity and proper maintenance is done. Retention structures shall have capacity to contain all process wastewaters plus the 25-year, 24-hour storm event.

(2) Proper Operation and Maintenance Requirements.

The facilities covered by the permit are required to document the attainment of all Best Management Practices (BMPs) used to comply with the effluent limitations in the permit. Where applicable, equivalent measures contained in a site specific Animal Waste Management Plan, if prepared by the U.S. Department of Agriculture Soil Conservation Service (NRCS), may be substituted for the Best Management Practices and Pollution Prevention Plan requirements in the permit. Where provisions in the Soil Conservation Service plan are substituted for applicable Best Management Practices or portions of the Pollution Prevention Plan, the Pollution Prevention Plan must refer to the appropriate section of the Soil Conservation Service plan. If the pollution prevention plan contains reference to the Soil Conservation Service plan, a copy of the Soil Conservation Service plan must be kept on site.

(3) Best Management Practices.

Animal waste NPDES permits shall contain Best Management Practices (BMPs) at least as stringent as NRCS Manual and all future amendments.

(4) Pollution Prevention Plans.

A pollution prevention plan shall be developed for each facility covered by the permit. Pollution prevention plans shall be prepared in accordance with good engineering practices and should include measures necessary to limit pollutants in runoff. The plan shall describe and ensure the implementation of practices which are to



be used to assure compliance with the limitations and conditions of the permit. The plan shall identify a specific individual(s) at the facility who is responsible for developing the implementation, maintenance, and revision of the pollution prevention plan. The activities and responsibilities of the pollution prevention personnel should address all aspects of the facility's pollution prevention plan.

(a) Where a Soil Conservation Service plan has been prepared for the facility, the pollution prevention plan may refer to the Soil Conservation Service plan when the Soil Conservation Service plan documentation contains equivalent requirements for the facility.

(b) The plan shall be signed by the owner or other signatory authority and be retained on site. The plan shall be updated as appropriate.

(5) Preventive Maintenance.

The plan shall include an appropriate schedule for preventative maintenance. Operators will provide routine maintenance to their control facilities in accordance with a schedule and plan of operation to ensure compliance with the permit. The permittee shall keep a maintenance log documenting that preventative maintenance was done. A preventative maintenance program shall involve inspection and maintenance of all runoff management devices (cleaning separators, catch basins) as well as inspecting and testing facility equipment and containment structures to uncover conditions that could cause break downs or failures resulting in discharges of pollutants to surface waters.

I. Storm Water NPDES General Permits Only

Pursuant to 40 CFR 122.26(c), storm water general permits shall require that a Storm Water Pollution Prevention Plan (SWPPP) be submitted with the Notice of Intent (NOI) for coverage unless otherwise addressed in the general permit. The SWPPP shall include, but not be limited to, the information required by the Storm Water NPDES General Permit.

J. Sewage Sludge Use or Disposal Requirements

The use and disposal of sewage sludge shall be in accordance with 40 CFR 503 - Standards for the Use or Disposal of Sewage Sludge, which are incorporated herein and adopted by reference. In the event the use and/or disposal of sludge involve incineration resulting in air emissions, a permit to construct and/or operate will be required in accordance with Regulation Title 11, Part 2,



Chapter 2, "Permit Regulation for the Construction and/or Operation of Air Emissions Equipment".

K. UIC Permits

(1) The UIC program for Class I, III, IV and V wells in the State of Mississippi was approved by EPA and became effective on September 26, 1983. Unless otherwise required herein, all owners or operators of Class I, III, IV or V wells, all applicants for UIC permits, and the Director of the UIC program shall comply with applicable provisions of 40 CFR 144, 146, 147.1250 subpart Z and 148, which are incorporated herein and adopted by reference, except as follows:

(a) Where federal regulations use the phrase "for EPA administered programs only," those portions of the federal regulations are not applicable to the Mississippi program and

(b) All regulations applicable to Class II wells are excluded from the aforementioned adoption since EPA has granted to the Mississippi State Oil and Gas Board the authority to regulate Class II wells.

(2) Unless otherwise provided herein, the UIC program shall be operated in compliance with the provisions of 40 CFR incorporated by reference in this paragraph.

(3) Classification of Injection Wells

Notwithstanding 40 CFR 144.6 and 146.5, for the purposes of these regulations, injection wells are classified as follows:

(a) Class I.

(1) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within five (5) miles of the wellbore, an underground source of drinking water.

(2) Other municipal and industrial disposal wells (including radioactive waste disposal wells) which inject fluids beneath the lowermost formation containing, within five (5) miles of the well bore, an underground source of drinking water.

(b) Class II. Wells which inject fluids:



(1) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.

(2) For enhanced recovery of oil or natural gas; and

(3) For storage of hydrocarbons which are liquid at standard temperature and pressure. Notwithstanding parts 3.a. and 3.d. of this rule, naturally occurring radioactive material (NORM) disposal wells are classified as Class II wells provided they meet the specific requirements of the Mississippi State Oil and Gas Board for such types of injection wells.

(c) Class III. Wells which inject for extraction of minerals including:

(1) Mining of sulfur by the Frasch process;

(2) In-situ production of uranium or other metals. This category includes only in-situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as slopes leaching is included in Class V.

(3) Solution mining of salts or potash.

(d) Class IV.

(1) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation which within five (5) miles of the well bore contains an underground source of drinking water.

(2) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation which



within 5 miles of the well contains an underground source of drinking water.

(3) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under 40 CFR 146.5(a)(1) or 40 CFR 146.5(d)(1) or (2) (e.g., wells used to dispose of hazardous waste into or above a formation which contains an aquifer which has been exempted pursuant to 40 CFR 146.04).

(e) Class V. Injection wells not included in Class I, II, III, or IV.

Typically, Class V wells are shallow wells used to place a variety of fluids directly below the land surface. However, if the fluids placed in the ground qualify as a hazardous waste under the Resource Conservation and Recovery Act (RCRA), the well shall be considered either a Class I or Class IV well, not a Class V well. Specific types of Class V injection wells are described in 40 CFR 144.81.

(4) Rules and Regulations for Injection Wells

(a) Class I Wells.

(1) Prohibition of Commercial Hazardous Waste Injection Wells.

In accordance with Miss. Code Ann. Section 17-17-27, Class I hazardous waste wells are prohibited, except such wells located on the generation site of hazardous waste generated in the production of oil or gas or in a commercial or manufacturing operation. Commercial hazardous waste underground injection wells designed or intended to dispose of multiple, non-homogeneous types of wastes from multiple sources other than the owner of the well are prohibited.

(2) Requirements for a New Class I Well.

(i) No person shall receive a permit for a new Class I well when the waste can be reasonably and adequately disposed by other methods.

(ii) Factors to be considered in determining whether underground injection or some other



method of disposal should be used shall include, but not necessarily be limited to, the following:

- (A) cost; (disposal methods other than injection wells must be used unless unreasonable costs are demonstrated. Marginal costs shall not be a basis for an injection well.);
- (B) treatment reliability;
- (C) effluent quality;
- (D) stream use classification;
- (E) indirect environmental impacts (e.g. sludge created, energy used, safety, etc.); and
- (F) any other factor the Permit Board deems appropriate.

(3) A person applying for a new Class I permit shall submit a report providing a basis for the injection well. The report shall include:

- (i) a detailed description of the composition of the wastes and the manufacturing process(es) and product(s) producing the wastes;
- (ii) treatability studies of alternate forms of waste treatment and/or disposal; and,
- (iii) a detailed explanation of the reasons why each alternative disposal method is considered less satisfactory than the proposed injection well, taking into consideration the factors identified in paragraph b. of this rule.

(4) A permittee shall continue to investigate alternative treatment and/or disposal technologies and shall discontinue deep well disposal by a schedule approved by the Department if it is determined that these alternative technologies or other technologies are feasible and economically practicable.

(5) Area of review of Class I Wells. Notwithstanding 40 CFR 146.6, the area of review for all Class I wells



shall not be less than a 2-mile radius around the well bore. The Permit Board may specify a larger area of review based on the calculated cone of influence of the well.

(6) Notwithstanding 40 CFR 146.12, all new Class I wells shall be constructed in accordance with 40 CFR 146.65(c).

(7) Reporting Requirements for Class I Wells.

(i) In addition to the requirements of 40 CFR 144.55, an applicant for a Class I well permit shall identify the location of all known wells within the injection well's area of review which penetrate the injection zone or penetrate to within 300 feet of the top of the injection zone. For such wells which are improperly sealed, completed, or abandoned, the applicant shall submit a corrective action plan as required in 40 CFR 144.55. The plan shall be updated annually, as necessary, to include any improperly sealed, completed, abandoned wells which are identified in the annual report required in part 4.(f)(3) of this rule.

(ii) In addition to the reporting requirements of 40 CFR 144.51(1), the permittee shall report orally to the Department within 24 hours of occurrence, the shutdown of any Class I well which requires down holes maintenance or repair. Excluded from this requirement are normal or expected operational shutdowns and maintenance procedures. Oral notification shall be followed by written notification within 5 days of occurrence.

(iii) The permittee shall file annually a report on the following information, to the extent that such information is reasonably available.

(A) Locations and depths of newly drilled or newly discovered wells within the area of review which penetrate the injection zone or penetrate to within 300 feet of the top of the injection zone, if such wells were not included in any previously submitted report.



(B) Tabulation of data on all wells identified pursuant to subparagraph K.(1) of this paragraph, including:

(1) a description of each well's type,

(2) construction,

(3) data drilled,

(4) location,

(5) depth,

(6) record of plugging and/or completion, and

(7) any additional information which the Permit Board may require.

(8) No UIC permit issued by the Permit Board shall be deemed to allow the permittee to inject any waste not specifically identified in the permit or any waste in any amount greater than the volume or rate specified in the permit. Additionally, no UIC permit for the injection of hazardous waste prohibited from land disposal by the federal Resource Conservation and Recovery Act (RCRA) Land Disposal Rules, 40 CFR 148, shall be issued by the Permit Board until and unless the permit applicant first obtains an exemption from the Land Disposal Rules for that hazardous waste from EPA.

(b) Class II Wells. In accordance with applicable state and federal regulations and statutes, the Mississippi State Oil and Gas Board has primacy to administer all matters related to the operation of Class II wells in the state.

(c) Class III Wells. Permitted Class III wells shall be completed and operated in accordance with standard injection well practices that ensure the protection of USDWs.



(d) Class IV Wells.

(1) The operation of Class IV wells are banned statewide, with the following exception: Notwithstanding the requirements of paragraphs (a) and (b) of 40 CFR 144.23, Class IV injection wells used to inject contaminated ground water that has been treated and is being injected into the same formation from which it was drawn are authorized by rule for the life of the well if such subsurface emplacement of fluids is approved for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 - 9675, or pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 - 6992 k or the Mississippi delegated RCRA program.

(2) Owners or operators of Class IV wells shall notify the Department and EPA of their intent to close any such well at least 30 days prior to its closure.

(3) All Class IV wells shall be plugged in a manner acceptable to EPA.

(e) Class V Wells.

(1) In accordance with 40 CFR 144.85:

(i) As of April 5, 2000, the installation of new large-capacity cesspools and new motor vehicle disposal wells are prohibited statewide.

(ii) All motor vehicle disposal wells located within delineated Source Water Protection Areas must be closed by January 1, 2005.

(iii) All large-capacity cesspools must be closed statewide by April 5, 2005.

(iv) All motor vehicle disposal wells (regardless of their location) must be closed statewide by January 1, 2007.

(2) Owners or operators of Class V wells shall notify the Department of their intent to close any such well at least 30 days prior to its closure. Official notification shall



consist of submitting a completed Class V Well Pre-closure Notification Form.

(3) All Class V wells shall be closed in accordance with applicable plugging and abandonment requirements contained in Title 11, Part 7, Chapter 1, Surface Water and Groundwater Use and Protection Regulations. Owners or operators of such wells shall submit a completed Class V Well Decommissioning Form to MDEQ indicating the adherence to proper plugging and abandonment procedures. In addition, the owner or operator must dispose or manage any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the well in accordance with all applicable Federal, State, and local regulations and requirements.

L. State Permits.

The discharge of any wastewater from a facility operating under a State permit to waters of the State shall constitute a violation of the permit, except as provided in Rule 1.1.4.A.20 and 27, or as authorized under separate permit pursuant to Section 402 of the Federal Act.

M. Pretreatment Permits.

The applicable procedures and requirements set forth in 40 CFR 403 and all amendments thereto are incorporated herein and adopted by reference as applicable to all pretreatment permits except the following:

- (1) 40 CFR 403.5(c) and (d)
- (2) 40 CFR 403.8
- (3) 40 CFR 403.9
- (4) 40 CFR 403.11
- (5) 40 CFR 403.18

In addition, 40 CFR 403.1(b)(i) is amended to provide as follows:

To pollutants from non-domestic sources covered by Pretreatment Standards which are indirectly discharged into or transported by truck or rail or otherwise introduced into public or privately owned treatment works.



Finally, the term "control authority" and/or "POTW" as used in the aforementioned regulation, shall mean the State of Mississippi.

N. State Permits Issued to Animal Feeding Operations Only

The following requirements shall be standard conditions for the issuance and reissuance of State Animal Waste Permits (in addition to those requirements set forth in C. of this Rule):

(1) Wet

(a) The Permit Board shall be notified in advance of the maintenance of any portion of the disposal system which will result in lowering of the efficiency of treatment during such maintenance or in the discharge of untreated waste to any waterway.

(b) The permittee must have all necessary structures and/or equipment to prevent any discharge other than that which is in excess of a 24-hour, 25-year rainfall event. Any discharge other than a discharge in excess of the 24-hour, 25-year rainfall event discharge is a violation of this permit.

(c) The permittee must report once per year on any discharge occurrence. The report must contain date, time, circumstances, and duration of discharge.

(d) The permittee must have completed construction within 12 months of date of issuance of this permit. Failure to submit certification of completion of construction, as designed, may result in revocation of permit.

(2) Dry

(a) Dry litter facilities shall have no discharge of process wastewater or contaminated stormwater.

(b) The Permittee shall implement an approvable Comprehensive Nutrient Plan.

(c) The Permittee must have completed construction within 12 months of date of issuance of this permit. Failure to submit certification of completion of construction, as designed, may result in revocation of permit.

O. State Mineral Mining and Processing Permits.



State No-Discharge permits shall contain as a minimum, the following requirements:

(1) No Discharge of Wastewater to Surface Water. The discharge of any wastewater from the facility to the waters of the State of Mississippi shall constitute a violation of the permit, except as provided in the permit, or as authorized under separate permit pursuant to Section 402 of the Federal Water Pollution Control Act.

(2) Structural Integrity.

(a) Any lagoon, sedimentation pond, or dredge pit must have an emergency discharge structure installed at least 24 inches above the normal operating fluid level, said discharge structure being at least 24 inches below the lowest point on the top of the containment dike

(b) Dikes and any other appurtenant structures must be constructed utilizing accepted engineering designs, standards, methodologies and materials. A professional engineer registered in the State of Mississippi shall certify the adequacy of construction.

(c) Dikes shall be maintained in good working order at all times. There shall be no leaks through dikes, any damaged dike shall be replaced or repaired immediately upon discovering any deficiency, and all earthen dikes shall be maintained with adequate cover, such that the effects of erosion are minimized.

(d) The permittee shall develop and maintain a daily inspection log for this facility. This log should include but not be limited to the following; condition of all dikes, observance of the area around the dikes to indicate any water pollution problems and the volume of wastewater accumulating within the dike. The date, time and person making the inspection should be included in this log.

(3) Sand and Gravel Permits Special Conditions.

When a mining activity is adjacent to a stream, a buffer zone shall be maintained between the edge of the mining activity and the highest point of the top bank of the stream. The buffer zone widths shall be the same as those set forth in Rule 1.3.4.C.3.(a)(1), (2) and (3) of these regulations. The buffer zone shall not be disturbed by any of the facility's activities.



P. State Permits for the Disposal of Contaminated Milk

All facilities and/or individual(s) needing to dispose of milk that has been classified by the Mississippi State Department of Health as contaminated shall apply for a State permit. As part of the conditions for issuing a waste disposal permit for contaminated milk, the following shall be applicable.

- (1) A contaminated milk disposal plan developed by the Natural Resources Conservation Service (NRCS) utilizing NRCS Contaminated Milk Disposal Guidelines shall be accepted as an application.
- (2) The NRCS contaminated milk disposal plan shall become enforceable requirements of the permit.
- (3) The permittee shall notify the Department prior to each application of contaminated milk. Notification shall consist of verbal communication prior to disposal; followed by written notification within five (5) days.

Q. State Permits for Aerial Applicator Program

- (1) Any person engaged in aerial application originating at a landing strip (including public and private) within the State for the purpose of chemical aerial application shall apply to the Permit Board for a State permit.
- (2) Terms and Conditions of State Permits for Aerial Applicators are listed below:
 - (a) Utilization of any surface impoundment for the purpose of collection, storage, and/or treatment of chemically contaminated wastewater generated from operations at an aerial applicator facility is prohibited.
 - (b) The discharges of any contaminated hopper low sump wastewater to surface waters or grounds of the facility are prohibited.
 - (c) The discharge of rinse water employed to remove chemical residue from the hopper, spray booms, empty chemical containers, and any other auxiliary equipment requiring frequent washing for chemical removal is prohibited.
 - (d) The Permit Board may require that all used and/or empty chemical containers be removed from the premises within a reasonable time.



(e) All empty containers must be triple rinsed prior to disposal in an approved landfill.

(f) All bulk chemical storage tanks are subject to Best Management Plans in accordance with A.12 of this Rule.

(g) Any connections from a public water supply to any tanks, sumps, etc., containing pesticides must be made so as to prevent backflow to the potable water system.

(h) The Permit Board may require additional terms and conditions it deems appropriate to prevent pollution and/or protect human health, welfare or the environment.

