



## STATE OF MISSISSIPPI

### PESTICIDE GENERAL PERMIT (PGP) FOR POINT SOURCE DISCHARGES TO STATE WATERS OF MISSISSIPPI FROM THE APPLICATION OF PESTICIDES



IN ACCORDANCE WITH THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
AND 11 MISS. ADMIN. CODE PT. 6, CH. 1.

### THIS CERTIFIES

Operators of point source discharges of pollutants (i.e, discharge) associated with the application of pesticides who:

- are eligible for permit coverage under Act 1, and
- are located in Mississippi

that discharge in accordance with the requirements of this permit into State water in accordance with effluent limitations, monitoring requirements, and other conditions set forth herein. This permit is also issued in accordance with the provisions of the Mississippi Air and Water Pollutions Control Law (Section 49-17\*1 et seq., Mississippi Code of 1972), and the regulations and standards adopted and promulgated thereunder, and under authority granted pursuant to Section 401 9b) of the Federal Water Pollution Control Act.

**Mississippi Environmental Quality Permit Board**

# PUBLIC NOTICE DRAFT 02/02/2022

**Mississippi Department of Environmental Quality**

Issued:

Permit No. MSG23

Expires:

Agency Interest 53751

\*\*\* Draft Permit \*\*\*

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## SUMMARY OF PERMIT REQUIREMENTS

**Are you a decision-maker (see ACT 1, T-2; ACT 2, T-2) for a large entity (see ACT 2, T-1, (2)) that exceeds an annual treatment threshold (see Table 1 below)?**

**If No:**

- Minimize Pesticide Discharges**
- Meet Water Quality Limits**
- Monitor/Report Adverse Incidents**

**If Yes:**

- Complete PNOI**
  - Plus:**
    - Develop & Implement PDMP**
    - Complete Annual Reports**
    - Maintain Pesticide Application Records**
- (Unless requested, PNOI & PDMP are not to be submitted)**

**Table 1. Annual Treatment Area Thresholds**

<b>Annual Treatment Area Thresholds</b>	
<b>Pesticide Use Pattern</b>	<b>Annual Threshold</b>
Mosquitoes and Other Flying Insect Pests	6,400 acres of treatment area <sup>1</sup>
Weed, Algae and Pathogen Control:	
- In Water	80 acres of treatment area <sup>2</sup>
- At Water's Edge:	20 linear miles of treatment area at water's edge <sup>2</sup>
Nuisance Animal Control:	
- In Water	80 acres of treatment area <sup>2</sup>
- At Water's Edge	20 linear miles of treatment area at water's edge <sup>2</sup>
Forest Canopy Pest Control, Including Both Aerial and Ground Applications to the Canopy	6,400 acres of treatment area <sup>1</sup>

<sup>1</sup> For calculating annual treatment area totals, count each pesticide application activity as a separate activity. For example, applying pesticides twice a year to a hundred (100) acre site should be counted as two hundred (200) acres of treatment area. Count each area every time an application is made in a given year

<sup>2</sup> For calculating annual treatment totals, count each pesticide application activity and both sides of a linear water body as one activity. For example, treating both sides of a ten (10) mile ditch is equal to ten (10) miles of water treatment length. Count each area or length just once regardless of the number of applications in a given year.

\*\* To determine actual total treatment acreage or distance for comparison with Table 1, do not attempt to add different pesticide use patterns. Only add actual treatment areas or distances for each pesticide use pattern for comparison with thresholds. For example, do not add actual acreage treated for nuisance animal with actual acreage treated for mosquitoes to determine if thresholds were surpassed for either nuisance animals or mosquitoes – compare only actual area treated for nuisance animals with thresholds for nuisance animals

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## **ACT 1 (Pesticide GP) APPLICABILITY**

### **T-1 PERMIT AREA**

This permit covers all areas of the State of Mississippi. [11 Miss. Admin. Code Pt. 6, Ch. 1.]

### **T-2 COVERAGE UNDER THIS PERMIT**

This permit covers any operator that meets the eligibility requirements identified in ACT's 1 and 2. An operator, defined in Appendix A, generally includes both (1) the entity with control over the financing for, or the decision to perform pesticide applications, including the ability to modify those decisions, that results in a discharge to waters of the State (defined in this permit as the "Decision-Maker") and (2) the entity with day-to-day operational control of or who performs activities (e.g., the application of pesticides) that are necessary to ensure compliance with the permit (e.g., they are authorized to direct workers to carry out activities required by the permit or perform such activities themselves – defined in this permit as the "Applicator"). As such, more than one operator may be responsible for compliance with this permit for any single discharge from the application of pesticides.

### **T-3 ACTIVITIES COVERED (USE PATTERNS)**

This permit covers operators who discharge to waters of the State from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue (hereinafter collectively "pesticides"), for the following pesticide use patterns. Chemical pesticide residuals are pollutants as applied if they are discharged from a point source for which NPDES permits are required. Biological pesticides on the other hand are always considered a pollutant under the Clean Water Act (CWA) regardless of whether the application results in residuals or not and require NPDES permit coverage.

- (1) **Mosquito and Other Flying Insect Pest Control** - to control public health/nuisance and other flying insect pests that develop or are present during a portion of their life cycle in or above standing or flowing water. Public health/nuisance and other flying insect pests in this use category include but are not limited to mosquitoes and black flies.
- (2) **Weed, Algae and Pathogen Pest Control** - to control invasive or other nuisance weeds, algae and pathogens, such as fungi and bacteria, in water and at water's edge, including but not limited to irrigation ditches and/or irrigation canals.

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- (3) **Nuisance Animal Pest Control** - to control invasive or other nuisance animals in water and at water's edge. Nuisance animals in this use category include, but are not limited to fish, lampreys, and mollusks.
- (4) **Forest Canopy Pest Control** - aerial and ground application of a pesticide to a forest canopy to control the population of a pest (e.g., insects or pathogens such as fungi and bacteria) where to target the pests effectively a portion of the pesticide unavoidably will be applied over and deposited to water.
- (5) **Other Individual "Case By Case" Pest Control Applications (must submit PNOI for consideration)** - for other applications, that are not covered by one of the four (4) applications listed above or that are proposing to discharge to a Tier 3 waterbody where a portion of the pesticide unavoidably will end up in waters of the State. Operators may submit a PNOI to the Mississippi Department of Environmental Quality (MDEQ) for consideration. MDEQ may require the submittal of further information in order to ensure the applicant can comply with requirements of this permit or any other requirements of the Permit Board deems necessary. Coverage under this permit is not guaranteed for "case by case" applicants. Applicants are only authorized to discharge under the conditions of this permit only after receiving written notification, from MDEQ, that they are covered under this permit.

**T-4 DISCHARGES TO WATERS WHERE A TOTAL MAXIMUM DAILY LOAD HAS BEEN ESTABLISHED / APPROVED**

A project is eligible for coverage under this general permit for discharges of pollutants of concern to water bodies for which there is a total maximum daily load (TMDL) established or approved by EPA if measures and controls are incorporated into operations that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, the facility must incorporate any conditions applicable to any discharge(s) necessary for consistency with the assumptions and requirements of such TMDL. If, after coverage issuance, a specific wasteload allocation is established that would apply to the discharge of a pesticide being used, then the operator must implement steps necessary to meet that allocation.

**T-5 DISCHARGES TO WATERS DESIGNATED AS TIER 3 FOR ANTIDegradation PURPOSES**

A project is eligible for coverage under this permit for discharges from a pesticide application to waters designated by a State as Tier 3 (Outstanding National Resource Waters) only when made to restore or maintain water quality or to protect public health or the environment that either do not degrade water quality or only degrade water quality on a short-term or temporary basis. In accordance with anti-degradation purposes under 40 CFR 131.12(a)(3). To obtain coverage, a PNOI must be

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submitted in accordance with ACT 1, T-3, (5). Information concerning Tier 3 waters in Mississippi can be found by performing a search for “Tier 3” on MDEQ’s website at <http://www.deq.state.ms.us> or by calling MDEQ at 601-961-5171.

**T-6 PEST CONTROL AND RELATED ACTIVITIES THAT ARE EXEMPT / EXCLUDED / DO NOT REQUIRE NPDES PERMITTING**

Applications of chemical pesticides that leave no excess portion of pesticide (after its intended purpose), to State Waters are not considered discharges of pollutants; therefore, an operator need not obtain NPDES permit coverage where no pesticide residuals exist in State Waters. In addition, an NPDES permit is not required for return flows from irrigated agriculture or for the introduction of pollutants from nonpoint source agricultural and silvicultural activities as described in 40 CFR 122.3 (e), including storm water runoff from orchards, cultivated crops, pastures, range lands and forest lands. According to 122.27, non-point silviculture activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance form which there is natural runoff does not meet the definition of a silvicultural point source activities and therefore do not require NPDES coverage.

**T-7 THIS PERMIT DOES NOT AUTHORIZE**

(1) **Discharges to Water Quality Impaired Waters.** You are not eligible for coverage under this permit for any discharges from a pesticide application to waters of the State if the water is identified as impaired by that pesticide or its degradates, unless a Pesticide Discharge Management Plan (PDMP) specifically identifies Best Management Practices (BMPs) which ensure the pesticide application will not cause or contribute to non-attainment of a water quality standard. For purposes of this permit, impaired waters are those that have been identified by the State pursuant to Section 303(d) of the CWA as not meeting applicable State water quality standards. In addition, impaired waters for the purposes of this permit include waters for which MDEQ have not yet approved or established a TMDL (303 d listed stream). In cases where the Permit Board becomes aware of potential impairment due to pesticide application activities, the Permit Board may require the submittal of certain information (such as a PNOI or PDMP) in order to ascertain whether practices are sufficient to comply with requirements of this permit or other requirements of the Permit Board. A list of these waters is available on the Internet at: [http://www.deq.state.ms.us/MDEQ.nsf/page/TWB\\_Total\\_Maximum\\_Daily\\_Load\\_Section?OpenDocument](http://www.deq.state.ms.us/MDEQ.nsf/page/TWB_Total_Maximum_Daily_Load_Section?OpenDocument) or by calling 601-961-5171. If your discharge would not be eligible under this permit because the water is listed as impaired for that specific pesticide, but you have evidence that shows the water is no longer impaired, you may submit this information to MDEQ and request that coverage be allowed under this permit. [11 Miss. Admin. Code Pt. 6, Ch. 1.]

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- (2) **Discharges Currently or Previously Covered by another Permit.** You are not eligible for coverage under this permit if any of the following circumstances apply:
- (i) The discharges are covered by another NPDES permit, or
  - (ii) The discharges were included in a permit that within the last five years has been or is in the process of being denied, terminated, or revoked by MDEQ (this does not apply to the routine reissuance of permits every five years).
- (3) **Discharges from the application of pesticides that the Executive Director determines have caused, or have a reasonable potential to cause or contribute to, violations of water quality standards.** If a discharge authorized under this permit is later determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, MDEQ will notify the operator of such water quality violation(s) in writing and will provide the information used by MDEQ to make this determination. The regulated entity must take all necessary actions required to ensure future discharges do not cause or contribute to the violation of a water quality standard. Where such determinations have been made, the Mississippi Environmental Quality Permit Board (Permit Board) may notify the operator(s) (decision-maker and applicator) to cease further applications until further notice, and/or to submit a PNOI and PDMP, or otherwise that an individual permit application is necessary in accordance with ACT 2, T-4 of this permit. Compliance with this requirement does not preclude any enforcement activity as provided by the Clean Water Act for the underlying violation(s).
- (4) **Discharges or discharge-related activities that are likely to jeopardize the continued existence of any species that is listed as endangered or threatened under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA.** Coverage under this permit is available only if the regulated entity's pesticide and discharge-related activities are not likely to jeopardize the continued existence of any species that is listed as endangered or threatened ("listed") under the ESA or result in the adverse modification or destruction of habitat that is designated as critical under the ESA ("critical habitat"). [11 Miss. Admin. Code Pt. 6, Ch. 1.]
- (5) **Other discharges** (such as treated sanitary waste water, equipment wash water, or was water from cleaning storage or mixing tanks) from facilities which handle or use pesticides.

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## **ACT 2 (PESTICIDE GP) OBTAINING COVERAGE**

### **T-1 AUTHORIZATION TO DISCHARGE UNDER THIS PERMIT**

- (1) All operators, except for those operators identified in (2) and (3) below, who meet the eligibility requirement identified in ACT 1 and who plan to discharge pollutants associated with the application of pesticides into State waters, under the terms and conditions of this permit, **are automatically covered under this permit.** Coverage includes operators, employees, contractors, subcontractors, and other agents, only for those activities identified in ACT 1 and for the duration of this permit unless coverage is terminated pursuant to ACT 2, T-4 & T-8.
- (2) All “decision makers” for large entities, who plan to or do surpass annual treatment thresholds (identified in table 1 below), are authorized to discharge under this permit only after the completion of a PNOI and the development of a Pesticide Discharge Management Plan (PDMP). MDEQ defines a large entity as any public entity serving over 10,000 people or any private entity that exceeds the Small Business Administration (SBA) size standard. SBA size standards can be found in 13 CFR 121 or email the SBA @ [sizestandards@sba.gov](mailto:sizestandards@sba.gov) or call them by phone at (202) 205-6618. The Pesticide Discharge Management Plan (PDMP) is discussed in ACT 4. **PNOI’s and PDMP’s are not required to be submitted to MDEQ unless required by MDEQ under ACT 1, T-3 (5) or otherwise specifically requested by MDEQ – see below**
- (3) If a Pesticide Notice of Intent (PNOI) has been submitted under ACT 1, T-3 (5) or ACT 1, T-7 (1 & 3), then operators (decision-makers and/or applicators) are authorized to discharge only after receiving written notification of such from MDEQ. MDEQ post, on the Internet at [www.deq.state.ms.us](http://www.deq.state.ms.us), all PNOIs received. PNOI submissions must be in accordance with the schedule identified in the request and in no case less than 10 days prior to planned discharge. Based on a review of the submitted PNOI and any other pertinent information, MDEQ may delay your authorization for further review, or may determine that additional technology-based and/or water quality-based effluent limitations are necessary. MDEQ may also deny coverage under this permit and require submission of an application for an individual NPDES permit, as detailed in T-4 of this ACT.
- (4) After December 20, 2025, applicants must submit the PNOI electronically as required by 40 CFR 127.16. **ONLY** when submittal is requested by MDEQ.



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<b>Table 1. Annual Treatment Area Thresholds **</b>	
<b>Pesticide Use</b>	<b>Annual Threshold</b>
Mosquitoes and Other Flying Insect Pests	6,400 acres of treatment area
Weed, Algae and Pathogen Control:	
-In Water	80 acres of treatment area <sup>1</sup>
- At Water’s Edge:	20 linear miles of treatment area at water’s edge <sup>2</sup>
Nuisance Animal Control:	
-In Water	80 acres of treatment area <sup>1</sup>
- At Water’s Edge	20 linear miles of treatment area at water’s edge <sup>2</sup>
Forest Canopy Pest Control, Including Both Aerial and Ground Applications to the Canopy	6,400 acres of treatment area

- <sup>1</sup> For calculating annual treatment area totals, count each pesticide application activity as a separate activity. For example, applying pesticides twice a year to a hundred (100) acre site should be counted as two hundred (200) acres of treatment area. Count each area every time an application is made in a given year
- <sup>2</sup> For calculating annual treatment totals, count each pesticide application activity and both sides of a linear water body as one activity. For example, treating both sides of a ten (10) mile ditch is equal to ten (10) miles of water treatment length. Count each area just once regardless of number of applications in a given year.
- \*\* To determine actual total treatment acreage or distance for comparison with Table 1, do not attempt to add different pesticide use patterns. Only add actual treatment areas or distances for each pesticide use pattern for comparison with thresholds. For example, do not add actual acreage treated for nuisance animal with actual acreage treated for mosquitoes to determine if thresholds were surpassed for either nuisance animals or mosquitoes – compare only actual area treated for nuisance animals with thresholds for nuisance animals.

**T-2 “DECISION MAKERS” WHO OPERATE LARGE ENTITIES THAT PLAN TO OR WILL, SURPASS ANNUAL TREATMENT THRESHOLDS ARE RESPONSIBLE FOR COMPLETING PESTICIDE NOTICE OF INTENT (PNOI) FORMS**

As it relates to this permit, operators include “decision – makers” and “applicators”. You are considered a “decision – maker” if you are in control over the financing for, or over the decision to perform pest control activities that will result in a discharge. When annual treatment thresholds are surpassed (annual thresholds are identified in Table 1) “decision - makers are responsible for completing Pesticide Notice of Intent (PNOI) Forms. PNOI’s are not required to be submitted unless required or requested by MDEQ under ACT 1, T-3, (5) or ACT 1, T-7, (1 & 3). Decision-makers can also be “applicators”.

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“Applicators” are those entities that perform the application of pesticides or have day-to-day control of the application of pesticides. For-hire applicators and operators of pesticide research and development facilities are not required to complete PNOIs or develop PDMP unless specifically requested to.

**T-3 OWNER(S) AND CONTRACTOR(S) ASSOCIATED WITH REGULATED PESTICIDE APPLICATION ACTIVITIES HAVE JOINT AND SEVERABLE RESPONSIBILITY FOR COMPLIANCE WITH THE PERMIT**

Notwithstanding any permit condition to the contrary, the coverage recipient and any person who causes pollution of waters of the state or places waste in a location where they are likely to cause pollution, shall remain responsible under applicable federal and state laws and regulations, and applicable permits.

**T-4 REQUIRING AN INDIVIDUAL PERMIT OR ALTERNATE GENERAL PERMIT**

MDEQ may require you to apply for and/or obtain authorization to discharge under either an individual NPDES permit or an alternative NPDES general permit in accordance with 40 CFR 122.64 and 124.5. If MDEQ requires you to apply for an individual NPDES permit, MDEQ will notify you in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and will provide application information. In addition, if you are an operator whose discharges are authorized under this permit, the notice will set a deadline to file the permit application, and will include a statement that on the effective date of the individual NPDES permit, or the alternative general permit as it applies to you, coverage under this general permit will terminate. MDEQ may grant additional time to submit the application if you submit a request setting forth reasonable grounds for additional time. If you are covered under this permit and fail to submit an individual NPDES permit application as required by MDEQ, then the applicability of this permit to you is terminated at the end of the day specified by MDEQ as the deadline for application submittal. MDEQ may take enforcement action for any unpermitted discharge or violation of any permit requirement.

If you do not want to be covered by this general permit, but need permit coverage, you can apply for an individual permit. In such a case, you must submit an individual permit application in accordance with the requirements of 40 CFR 122.26(c)(1)(ii), with reasons supporting the request, to MDEQ at the address listed in ACT 2, T-10 of this permit. The request may be granted by issuance of an individual permit or authorization of coverage under an alternative general permit if your reasons are warranted.

When an individual NPDES permit is issued to you or you are authorized under an alternative NPDES general permit to discharge a pollutant to waters of the State as a result of a pesticide application, your authorization to discharge under this permit is terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit.

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**T-5 DISCHARGE AUTHORIZATION DATE**

You must be covered under an NPDES permit for discharge to waters of the State from the application of (1) biological pesticides or (2) chemical pesticides that leave a residue in waters of the State. Operators are authorized to discharge under this permit consistent with Table 2 below.

<b>Table 2. Discharge Authorization Date</b>		
<b>I. Category</b>	<b>PNOI Submittal Deadline</b>	<b>Discharge Authorization Date</b>
Operators not required to submit a PNOI.	Not applicable.	Immediately or if surpassed an annual treatment threshold, only after completing a PNOI. Additionally, after April 30, 2012, develop PDMP prior to discharging. .
Operators that MDEQ has requested the submittal of a PNOI	As identified in the submittal request; but, no later than 10 days prior to the commencement of discharge.	No earlier than 10 days after MDEQ posts, on MDEQ's web site, the receipt of your completed and accurate PNOI.
Operators commencing discharge in response to a declared pest emergency situation as defined in Appendix A.	If a PNOI was required, no later than 30 days after commencement of discharge. <sup>1</sup>	Immediately, for activities conducted in response to declared pest emergency situation.

<sup>1</sup>

In the event that a discharge occurs prior to you completing a PNOI, you must comply with all other requirements of this permit immediately.

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**T-6 CONTINUATION OF THE EXPIRED GENERAL PERMIT**

If this permit is not reissued prior to the expiration date, it will be administratively continued and remain in force and effect. Permit coverage will remain until the earliest of:

- (1) Recoverage under the reissued general permit
- (2) Submittal of a Request for Termination and receipt of written concurrence
- (3) Issuance of an individual permit for the project's discharge
- (4) A formal permit decision by the Permit Board to not reissue the general permit, at which time the coverage recipient must seek coverage under an alternative general permit or an individual permit.

**T-7 DUTY TO REAPPLY**

If you wish to continue an activity regulated by this permit after the expiration date of this permit, you must obtain authorization as required by the new permit once it is issued.

**T-8 TERMINATING COVERAGE**

**Submitting a Notice of Termination.** To terminate permit coverage, operators who have submitted PNOI's to MDEQ must submit a complete and accurate Notice of Termination Form (see MDEQ to obtain the NOT Form). Your authorization to discharge under this permit terminates at midnight of the day that a complete Notice of Termination is processed and posted on MDEQ's website ([http://www.deq.state.ms.us/MDEQ.nsf/page/Main\\_Home?OpenDocument](http://www.deq.state.ms.us/MDEQ.nsf/page/Main_Home?OpenDocument)). If you submit a Notice of Termination without fully completing the form, then your Notice of Termination is not valid. You are responsible for complying with the terms of this permit until your authorization is terminated. In addition, decision-makers who operate large entities, that meet annual treatment thresholds are required to complete annual reports and must complete annual reports for the portion of the year up through the date of termination. The annual reports are not required to be submitted to MDEQ unless requested by MDEQ.

For operators that are not required to submit PNOI's, coverage is terminated automatically when they no longer have or plan to have a discharge from the application of pesticides (out of business). In addition, when operators are issued an NPDES individual permit or covered under an alternative NPDES general permit (according to ACT 2, T-4); your authorization to discharge under this permit is terminated on the effective date of the issuance or coverage under an alternative NPDES Permit.

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**T-9 WHEN TO SUBMIT A NOTICE OF TERMINATION**

Operators who have submitted a PNOI to MDEQ must submit a Notice of Termination within 30 days after one or more of the following conditions have been met:

- (1) A new operator has taken over responsibility of your pest control activities covered under an existing PNOI;
- (2) You have ceased all discharges from the application of pesticides for which you obtained permit coverage and you do not expect to discharge during the remainder of the permit term for any of the use patterns as identified in ACT 1, T-3; or
- (3) You have obtained coverage under an individual NPDES permit or an alternative general NPDES permit, unless you obtained coverage consistent with ACT 2, T - 4, in which case coverage under this permit will terminate automatically when the new permit is issued.

**T-10 MDEQ's MAILING AND PHYSICAL ADDRESSES**

All information requested by MDEQ must be submitted to:

Chief, Environmental Permits Division  
Mississippi Department of Environmental Quality  
Office of Pollution Control  
P.O. Box 2261  
Jackson, Mississippi 39225

For priority, overnight, or hand deliveries, the physical address is:

515 East Amite Street  
Jackson, Mississippi 39201

The Pesticide General Permit, other associated forms and guidance may be obtained from the MDEQ at the physical address shown above or by calling 601-961-5171. These materials may also be found on the MDEQ web site at [www.deq.state.ms.us](http://www.deq.state.ms.us). If a PNOI was submitted to MDEQ, coverage will not be granted until all other required MDEQ permits, certifications and approvals are satisfactorily addressed. [11 Miss. Admin. Code Pt. 6, Ch. 1., 11 Miss. Admin. Code Pt. 2, Ch. 2.]

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**T-11 SEVERABILITY**

Invalidation of a portion of this permit does not render the whole permit invalid. MDEQ's intent is that the permit will remain in effect to the extent possible; in the event that any ACT of this permit is invalidated, the remaining ACTs of the permit will remain in effect unless MDEQ issues a written statement otherwise.

**T-12 OTHER FEDERAL AND STATE LAWS**

You must comply with all other applicable federal and state laws and regulations that pertain to your application of pesticides. For example, this permit does not negate the requirements under FIFRA and its implementing regulations to use registered pesticides consistent with the product's labeling. Additionally, there are other laws and regulations that may apply to certain activities that are also covered under this permit (e.g., State Pesticide Laws).

**T-13 NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE**

It shall not be a defense for you 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 this permit.

**ACT 3 (PESTICIDE GP) ALL APPLICATORS COVERED UNDER THIS PERMIT MUST COMPLY WITH THE FOLLOWING TECHNOLOGY-BASED AND WATER QUALITY BASED EFFLUENT LIMITATIONS****T-1 MINIMIZE PESTICIDE DISCHARGES TO WATERS OF THE STATE**

To meet the required technology based effluent limitations under this ACT, operators must implement site-specific control measures that minimize discharges of pesticides to waters of the State including but not limited to:

- (1) If determined by a "Decision-Maker", applicators must use the lowest effective amount and frequency of pesticide product as determined by the decision-maker, necessary to control the target pest, using the equipment and application procedures appropriate for the task being consistent with product label application rates authorized under FIFRA, and reducing the potential for development of pest resistance, per application;

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- (2) **If the “Decision-Maker” does not determine** the lowest effective amount and frequency of pesticide product, necessary to control the target pest; then, applicators must determine the lowest effective amount and frequency of pesticide product, necessary to control the target pest, using the equipment and application procedures appropriate for the task being consistent with product label application rates authorized under FIFRA, and reducing the potential for development of pest resistance, per application;
- (3) Applicators must perform regular maintenance activities to reduce leaks, spills, or other unintended discharges;
- (4) Applicator must maintain pesticide application equipment in proper operating condition by calibrating, cleaning, and repairing such equipment on a regular basis;
- (5) Applicator must assess weather conditions to ensure application is consistent with applicable requirements; and
- (6) If a Pesticide Discharge Management Plan (PDMP) has been developed by a decision-maker (as required by ACT 4) for a project, then the applicator must comply with appropriate requirements of the plan – ultimately being consistent with the requirements and conditions of this permit.

## **T-2 WATER QUALITY-BASED EFFLUENT LIMITATIONS**

Discharges must be controlled as necessary to meet applicable numeric and narrative state water quality standards. If at any time an operator becomes aware, or MDEQ determines, that your discharge causes or contributes to an excursion of applicable water quality standards, you must cease applications and take corrective actions to achieve compliance with those standards and to ensure that future applications do not cause excursions of water quality standards. Compliance with this requirement does not preclude any enforcement activity as provided by the Clean Water Act for the underlying violation(s).

## **T-3 SITE MONITORING**

Applicators must monitor: the amount of pesticide being applied to ensure that the lowest amount to effectively control the pest is being used. Applications must also monitor activities to ensure that regular maintenance of application equipment is being accomplished. To keep application equipment in proper operating condition must include calibrating, cleaning, and repairing equipment on a regular basis. Maintenance activities are to be documented.

Applicators must conduct spot checks in application areas for possible adverse incidents, including but not limited to death or distress of non-target organisms and disruption of wildlife habitat, recreational or municipal water use. Spot checks are to be documented.

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**T-4 VISUAL ASSESSMENTS OF THE APPLICATION SITE MUST BE PERFORMED DURING**

- (1) Any post-application surveillance or efficacies check that you conduct, if a surveillance or efficacy check is conducted.
- (2) Any pesticide application, when considerations for safety and feasibility allow.

Visual Assessments must be documented

**T-5 ADVERSE INCIDENT**

Adverse incident means an incident that you have observed upon inspection or of which you otherwise become aware, in which:

- (1) A person or non-target organism may have been exposed to a pesticide residue, and
- (2) The person or non-target organism suffered a toxic or adverse effect.

The phrase “toxic or adverse effects” includes effects that occur within waters of the State on non-target plants, fish or wildlife that are unusual or unexpected (e.g., effects are to organisms not otherwise described on the pesticide product label or otherwise not expected to be present) as a result of exposure to a pesticide residue, and may include:

- (1) Distressed or dead juvenile and small fishes
- (2) Washed up or floating fish
- (3) Fish swimming abnormally or erratically
- (4) Fish lying lethargically at water surface or in shallow water
- (5) Fish that are listless or non-responsive to disturbance
- (6) Stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants
- (7) Other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, etc.)



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The phrase, “toxic or adverse effects,” also includes any adverse effects to humans (e.g., skin rashes) or domesticated animals that occur either directly or indirectly from a discharge to waters of the State that are temporally and spatially related to exposure to a pesticide residue (e.g., vomiting, lethargy). Any adverse incident must be documented.

**T-6 ADVERSE INCIDENT DOCUMENTATION AND REPORTING – NOTIFICATION REQUIREMENTS**

If you are aware of an adverse incident, you must immediately notify MDEQ. If you are an applicator, you must also notify the decision-maker that has paid you or requested that you apply pesticide(s). This notification must be made by telephone within 24 hours of you becoming aware of the adverse incident and must include at least the following information:

- (1) Name and telephone number;
- (2) Operator name and mailing address;
- (3) If a PNOI was submitted to MDEQ and subsequently issued a Certificate of Coverage, the NPDES Coverage tracking number;
- (4) The name and telephone number of a contact person;
- (5) How and when you became aware of the adverse incident;
- (6) Description of the location of the adverse incident;
- (7) Description of the adverse incident and the EPA pesticide registration number of the product(s) involved; and
- (8) Description of any steps you have taken or will take to correct, repair, remedy, cleanup, or otherwise address any adverse effects.

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Within five (5) days of a reportable adverse incident you must provide a written report of the adverse incident to MDEQ. The adverse incident report must include:

- (1) Information required to be provided in 24-hour call;
- (2) Date and time you contacted MDEQ notifying MDEQ of the adverse incident and who you spoke with and any instructions you received
- (3) Location of incident, including the names of any waters affected and appearance of those waters (sheen, color, clarity, etc);
- (4) A description of the circumstances of the adverse incident including species affected, estimated number of individual and approximate size of dead or distressed organisms;
- (5) Magnitude and scope of the affected area;
- (6) Pesticide application rate, intended use site (e.g., banks, above, or direct to water), method of application, and name of pesticide product, description of pesticide ingredients, and EPA registration number;
- (7) Description of the habitat and the circumstances under which the adverse incident occurred;
- (8) If laboratory tests were performed, indicate what test(s) were performed, and when, and provide a summary of the test results within 5 days after they become available;
- (9) If applicable, explain why you believe the adverse incident could not have been caused by exposure to the pesticide;
- (10) Actions to be taken to prevent recurrence of adverse incidents; and
- (11) Signed and dated in accordance with permit.

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**T-7 ADVERSE INCIDENT TO THREATENED OR ENDANGERED SPECIES OR CRITICAL HABITAT  
ADDITIONAL NOTIFICATION REQUIREMENTS**

Additionally, if you become aware of an adverse incident to a federally-listed threatened or endangered species or its federally-designated critical habitat, that may have resulted from a discharge from your pesticide application, you must immediately notify the National Marine Fisheries Service (NMFS) at 721-824-5301 in the case of an anadromous or marine species, or the U.S. Fish and Wildlife Service (FWS) at 1-800-344-9453 in the case of a terrestrial or freshwater species. This notification must be made by telephone immediately upon your becoming aware of the adverse incident and must include at least the following information:

- (1) The caller's name and telephone number;
- (2) Operator name and mailing address;
- (3) The name of the affected species;
- (4) How and when you became aware of the adverse incident;
- (5) Description of the location of the adverse incident;
- (6) Description of the adverse incident, including the EPA pesticide registration number for each product you applied in the area of the adverse incident;
- (7) Description of any steps you have taken or will take to alleviate the adverse impact to the species; and
- (8) Federally-listed threatened or endangered species and federally-designated critical habitat is available from NMFS ([www.nmfs.noaa.gov](http://www.nmfs.noaa.gov)) for anadromous or marine species or FWS ([www.fws.gov](http://www.fws.gov)) for terrestrial or freshwater species.

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**T-8 REPORTABLE SPILLS AND LEAKS NOTIFICATION REQUIREMENTS**

Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117, or 40 CFR Part 302 occurs in any 24-hour period, you must notify the National Response Center (NRC) immediately at (800) 424-8802 in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117, and 40 CFR Part 302 as soon as you have knowledge of the release. Contact information must be in locations that are readily accessible and available in the area where the spill, leak, or other unpermitted discharge may occur.

Within 5 days of you becoming aware of a spill, leak, or other unpermitted discharge triggering the notification above, you must document and retain the following information:

- (1) Information required to be provided in the above paragraph;
- (2) Summary of corrective action taken or to be taken including date initiated and date completed or expected to be completed;
- (3) Any measures to prevent recurrence of such a spill or leak or other discharge, and if a PDMP has been developed, notice of whether PDMP modifications are required as a result of the spill or leak.

**T-9 REQUIRED PROCEDURE CHANGES**

If any of the following occur, applicators must review procedures used so the occurrence will not be repeated:

- (1) An unauthorized spill, leak, or discharge;
- (2) Failed to:
  - (i) Use the lowest amount of pesticide necessary to control the target pest;
  - (ii) Perform regular maintenance activities; or
  - (iii) Maintain pesticide application equipment in proper operating condition by calibrating, cleaning, and repairing such equipment on a regular basis, or

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(3) You observe an adverse incident as defined in T-5 above

Revisions / correction of procedures must be made before the next pesticide application or as soon as possible thereafter. Performing needed corrections or revisions to procedures does not absolve you of liability for any original violation. However, failure to perform needed corrections or revisions potentially constitutes an additional permit violation. Revised procedures must be documented.

**T-9 RECORD KEEPING**

You must keep written records as required in this permit. These records must be accurate and complete and sufficient to demonstrate your compliance with the conditions of this permit. You can rely on records and documents developed for other obligations, such as requirements under FIFRA, and state or local pesticide programs, provided all requirements of this permit are satisfied. MDEQ requires that all operators covered under this permit keep records of acres or linear miles treated for all applicable use patterns covered under this general permit. The records should be kept up-to-date to determine if you will meet the annual treatment area threshold during any calendar year, as identified in ACT 2, T-1. In addition, all operators must keep a copy of this permit (an electronic copy is also acceptable).

**ACT 4 (PESTICIDE GP) PESTICIDE DISCHARGE MANAGEMENT PLAN**

This ACT applies to operators who are “Decision-Makers” that operate large entities that surpass annual treatment thresholds (annual thresholds are identified in Table 1. You are considered a “decision – maker” if you are in control over the financing for, or over the decision to perform pest control activities that will result in a discharge. MDEQ defines a large entity as any public entity serving over 10,000 people or any private entity that exceeds the Small Business Administration (SBA) size standard. SBA size standards can be found in 13 CFR 121 or email the SBA at [sizestandards@sba.gov](mailto:sizestandards@sba.gov) or call them by phone at (202) 205-6618. If you meet the above identity you are required to develop a Pesticide Discharge Management Plan (PDMP) as outlined below. Some sections of the Pesticide Discharge Management Plan (PDMP) will require input from the pesticide applicator.

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Once a PDMP has been developed, the plan must be kept up-to-date thereafter for the duration of coverage under this general permit, even if your discharges subsequently fall below applicable treatment area thresholds. You must develop a PDMP consistent with the deadline outlined in Table 3 below.

<b>Table 3. Pesticide Discharge Management Plan Deadline</b>	
<b>Category</b>	<b>PDMP Deadline</b>
Large operators not meeting treatment area thresholds	Not applicable
Large operators who know or should have reasonably known, prior to commencement of discharge that they will exceed an annual treatment area threshold identified in ACT 2 for that year. Operators who do not know or would reasonably not know until after commencement of discharge, that they will exceed an annual treatment area threshold identified in ACT2 for that year.	April 30, 2012, and after that, prior to first pesticide application covered under this permit. Or if an operator was not aware that they were going to surpass a threshold, as soon as possible but no later than 90 days after becoming aware.
Large operators commencing discharge in response to a declared pest emergency situation as defined in Appendix A that will cause the operator to exceed an annual treatment area threshold.	No later than 90 days after responding to declared pest emergency situation.

In your PDMP, you may incorporate by reference any procedures or plans in other documents that meet the requirements of this permit. If you rely upon other documents to comply with the requirement of this permit, you must attach a copy of the portion(s) of the document(s) that you are using. PDMPs must be kept up-to-date.

**T-1 CONTENTS OF YOUR PESTICIDE DISCHARGE MANAGEMENT PLAN**

(1) Your PDMP must include the following elements:

- (i) Pesticide Discharge Management Team
- (ii) Pest Management Area Description

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- (iii) Control Measure Description
- (iv) Schedules and Procedures
- (2) Control Measures Used to Comply with the Effluent Limitations in ACT 3
  - (i) Application Rate and Frequency Procedures (consistent with label application rates authorized under FIFRA)
  - (ii) Spill Prevention Procedures
  - (iii) Pesticide Application Equipment Procedures
  - (iv) Pest Surveillance Procedures
  - (v) Assessing Environmental Conditions Procedures
- (3) Other Actions Necessary to Minimize Discharges
  - (i) Spill Response Procedures
  - (ii) Adverse Incident Response Procedures
  - (iii) Pesticide Monitoring Schedules and Procedures
  - (iv) Documentation to Support Eligibility Considerations under Other Federal Laws
  - (v) Signature Requirements.

**T-2 PDMP TEAM**

You must identify all the persons (by name and contact information) that compose the team as well as each person's individual responsibilities, including:

- (1) Person(s) responsible for managing pests in relation to the pest management area;

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- (2) Person(s) responsible for developing and revising the PDMP;
- (3) Person(s) responsible for developing, revising, and implementing corrective actions and other effluent limitation requirements; and
- (4) Person(s) responsible for pesticide applications. If the pesticide applicator is unknown at the time of plan development, indicate whether or not a for-hire applicator will be used and when you anticipate that you will identify the applicator. Identification of team members must include any written agreement(s) between you and any other operator(s), such as a for-hire pesticide applicator, that specify the division of responsibilities between owners / decision-maker and contractors as necessary to comply with the provisions of this permit.

**T-3 PEST MANAGEMENT AREA DESCRIPTION**

You must document the following:

- (1) Pest problem description. Document a description of the pest problem at your pest management area, including identification of the target pest(s), source of the pest problem, and any source of data used to identify the problem;
- (2) Action Threshold(s). Describe the action threshold(s) for your pest management area including considerations for environmental conditions, the time of year, and an operator's personal knowledge of the pest management area (preemptive applications may reduce or eliminate the amount of pesticide product that may be required to be sprayed later.). Include a description of how threshold(s) were determined;
- (3) General location map. In the plan, include a general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) that identifies the geographic boundaries of the area to which the plan applies and location of the waters of the State; and
- (4) Water quality standards. Document the water quality standards applicable to waters to which there may be a discharge, including the list of pesticide(s) or any degradates for which the water is impaired.

**T-4 CONTROL MEASURE DESCRIPTION**

You must document control measures necessary to comply with the effluent limitations required in ACT 3.



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**T-5 SCHEDULES AND PROCEDURES**

**You must document the following schedules and procedures in your PDMP**

- (1) Pertaining to control measures used to comply with the effluent limitations in ACT 3 the following must be documented in your PDMP:
  - (i) Application Rate and Frequency. Procedures for determining the lowest effective amount of pesticide product per application and the optimum frequency of pesticide applications necessary to control the target pest, consistent with product label application rates authorized under FIFRA, and reducing the potential for development of pest resistance;
  - (ii) Spill Prevention. Procedures and schedule of maintenance activities for preventing spills and leaks of pesticides associated with the application of pesticides covered under this permit;
  - (iii) Pesticide Application Equipment.) Schedules and procedures for maintaining the pesticide application equipment in proper operating condition, including calibrating, cleaning, and repairing the equipment;
  - (iv) Pest Surveillance. Procedures and methods for conducting pre- application pest surveillance; and
  - (vi) Assessing Environmental Conditions.) Procedures and methods for assessing environmental conditions in the treatment area.
- (2) Other actions necessary to minimize Pesticide discharges. The following must be documented in your PDMP:
  - (i) Spill Response Procedures – At a minimum you must have:
    - a. Procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. Employees who may cause, detect, or respond to a spill or leak must be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of your PDMP team; and
    - b. Procedures for notification of appropriate facility personnel, emergency response agencies, and regulatory agencies.

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- (ii) Adverse Incident Response Procedures – At a minimum you must have:
- a. Procedures for responding to any incident resulting from pesticide applications; and
  - c. Procedures for notification of the incident, both internal to your agency/organization and external. Contact information for state/federal permitting agency, nearest emergency medical facility, and nearest hazardous chemical responder must be in locations that are readily accessible and available.
- (iii) Pesticide Monitoring Schedules and Procedures – You must document procedures for monitoring consistent with the following:
- a. The process for determining the location of any monitoring;
  - b. A schedule for monitoring;
  - e. The person (or position) responsible for conducting monitoring; and
  - f. Procedures for documenting any observed impacts to non-target organisms resulting from your pesticide discharge.

**T-6 SIGNATURE REQUIREMENTS**

You must sign, date and certify your PDMP in accordance with ACT 6, T-13.

**T-7 PESTICIDE DISCHARGE MANAGEMENT PLAN MODIFICATIONS**

You must modify your PDMP whenever necessary to address any noncompliance with the conditions of this permit that require corrective action or when a change in pest control activities significantly changes the type or quantity of pollutants discharged. Changes to your PDMP must be made before the next pesticide application that results in a discharge, if practicable, or if not, as soon as possible thereafter. The revised PDMP must be signed and dated in accordance with ACT 6, T-13. You must review your PDMP at a minimum once per calendar year and whenever necessary to update the pest problem identified and pest management strategies evaluated for your pest management area.

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**T-8 PESTICIDE DISCHARGE MANAGEMENT PLAN AVAILABILITY**

You must retain a copy of the current PDMP, along with all supporting maps and documents, at the address provided in the PNOI. The PDMP and all supporting documents must be readily available, upon request, and copies of any of these documents provided, upon request, to MDEQ and their agents. MDEQ may provide copies of your PDMP or other information related to this permit that is in its possession to members of the public. Any Confidential Business Information (CBI), as defined in 40 CFR 123.41, may be withheld from the public provided that a claim of confidentiality is properly asserted and documented in accordance with 40 CFR 2; however, CBI must be submitted to MDEQ, if requested, and may not be withheld from those staff within MDEQ.

**T-9 PESTICIDE MANAGEMENT PLAN RECORDS TO BE KEPT**

Records listed below are required to be kept at the address provided on the PNOI, as required by ACT 2, T-1, and readily available upon request. Records of equipment maintenance and calibration are to be maintained only by the entity performing the pest application activity (on behalf of self or client).

- (1) A copy of the PNOI and any correspondence exchanged between you and MDEQ specific to coverage under this permit, and if a PNOI was requested by MDEQ, a copy of the MDEQ acknowledgment letter assigning your permit coverage tracking number;
- (2) The date on which you knew or reasonably should have known that you would exceed an annual treatment area threshold during any calendar year, as identified in ACT 2, T-1;
- (4) Surveillance method(s) used, date(s) of surveillance activities, and findings of surveillance;
- (5) Target pest(s);
- (6) Pest density prior to pesticide application;
- (7) Company name and contact information for pesticide applicator;
- (9) Pesticide application date(s);
- (10) Description of treatment area, including location and size (acres or linear feet) of treatment area and identification of any

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waters, either by name or by location, to which you discharged any pesticide(s);

- (11) Name of each pesticide product used including the EPA registration number;
- (12) Quantity of pesticide applied (and specify if quantities are for the pesticide product as packaged or as formulated and applied);
- (13) Concentration (%) of active ingredient in formulation;
- (14) For pesticide applications directly to waters, the effective concentration of active ingredient required for control;
- (15) Any unusual or unexpected effects identified to non-target organisms;
- (16) Documentation of any equipment cleaning, calibration, and repair (to be kept by pesticide application equipment operator); and
- (19) A copy of your PDMP, including any modifications made to the PDMP during the term of this permit.

## **ACT 5      Documentation of Records and Reporting**

### **T-1    DOCUMENTING RECORDS**

All required records must be documented as soon as possible but no later than 14 days following completion of permitted activities that require documentation. You must retain all records required under this permit for at least 3 years from the date that your coverage under this permit expires or is terminated. You must make available to MDEQ, including authorized representatives of MDEQ, all records kept under this permit upon request and provide copies of such records, upon request.

### **T-2    ANNUAL REPORTING**

If you've completed a PNOI, you must complete an annual report as described below. This report must be submitted to MDEQ **only upon request.** Once you've met the obligation to complete an annual report, you must continue to complete an annual report each calendar year thereafter for the duration of coverage under this general permit, whether or not you have discharges from the application of pesticides in any subsequent calendar year. You must attach copies all pesticide activities covered under this permit occurring during the previous calendar year to the report.

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The annual report must include information for the calendar year, with the first annual report required to include activities for the portion of the calendar year after the effective date of coverage. If the effective date is after December 1, you are required to develop an annual report for that first partial year. When you terminate permit coverage, as specified in ACT 2, T-8 you must develop an annual report for the portion of the year up through the date of your termination.

The annual report must contain the following information:

- (1) Operator's name;
- (2) If a Certificate of Coverage was issued to you then the NPDES coverage tracking number(s);
- (3) Contact person name, title, e-mail address (if any), and phone number; and
- (4) For each pest treatment area, report the following information:
  - (i) Identification of any waters or other treatment area, including size, either by name or by location, to which you discharged any pesticide(s);
  - (ii) Pesticide use pattern(s) (i.e., mosquito and other flying insects, weeds, algae and pathogens, nuisance animals, or forest canopy) and target pest(s);
  - (iii) Company name(s) and contact information for pesticide applicator(s), if different from the PNOI submitter;
  - (iv) Total amount of each pesticide product applied for the reporting year by the EPA registration number(s) and by application method (e.g., aerially by fixed-wing or rotary aircraft, broadcast spray, etc.);
  - (v) Whether this pest control activity was addressed in your PDMP prior to pesticide application;
  - (vi) If applicable, an annual report of any adverse incidents as a result of these treatment(s), for incidents, as described in ACT 3, T-5; and
  - (vii) A description of any corrective action(s), including spill responses, resulting from pesticide application activities and the rationale for such action(s).

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## **ACT 6 (PESTICIDE GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS**

The standard permit conditions found in this permit generally are consistent with the permit provisions required in 40 CFR 122.41, but are modified to reflect the nature of discharges covered under this general permit.

### **R-1 RECORDING OF RESULTS AND RECORDS RETENTION**

For each measurement or sample taken pursuant to the requirements of this permit, the coveragee shall maintain records of all information obtained from such monitoring including:

- (1) the place, date, and time of sampling;
- (2) the dates the analyses were performed;
- (3) the person(s) performing the analyses;
- (4) the analytical techniques, procedures or methods used; and
- (5) the results of such analyses.

All records and results of monitoring activities required by this permit, including calibration and maintenance records, shall be retained by the coveragee for 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. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(29)(a).]

### **S-1 PLANNED CHANGES**

The coveragee 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);

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- (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);
- (3) The alteration or addition results in a significant change in the coveragee'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 application process or not reported pursuant to an approved land application plan or an approved nutrient management plan; or
- (4) Any planned change in project operations that may affect storm water discharges. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(15)(a).]

**S-2 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 coveragee which may result in a new or increased discharge of waste, shall be reported to the Permit Board by submission of an updated NOI for coverage under the general permit pursuant to 11 Miss. Admin. Code Pt. 6, R.1.1.2.A. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A.(14).]

**S-3 MISREPRESENTATION OF INFORMATION**

- (1) In the event 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 Department or Permit Board, it shall promptly submit such facts or information.
- (2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the Permit Board pursuant to the State law or the rules and regulations pursuant to such law; shall be subject to the penalties provided for in the Code for perjury or false statements. [11 Miss. Admin. Code Pt. 6, R.1.1.2.E., 11 Miss. Admin. Code Pt. 6, R.1.1.4.A(29)(g).]

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**S-4 NONCOMPLIANCE REPORTING**

- (1) Anticipated Noncompliance. The coverage 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. Giving notice of planned or anticipated noncompliance does not immunize the coveragee from enforcement action for that noncompliance.
- (2) Unanticipated Noncompliance. The coveragee shall notify the MDEQ orally of any unanticipated noncompliance within 24 hours from the time the coverage becomes aware of the circumstances. A written report shall be provided to the MDEQ within 5 days of the time the coveragee becomes aware of the circumstances. The report 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.
- (3) Other Noncompliance. The coveragee shall report all instances of noncompliance not reported under paragraph (2) above, 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 paragraph (2) above. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(15)(b)., 11 Miss. Admin. Code Pt. 6, R.1.1.4.A(29)(e)(1)., 11 Miss. Admin. Code Pt. 6, R.1.1.4.A(29)(f).]

**S-5 TRANSFER OF OWNERSHIP OR CONTROL**

Coverage granted under this permit is not transferable to any person except after proper notice and approval by the Permit Board. In the event of any change in control or ownership of facilities from which the authorized activities emanate, the coveragee shall notify the Mississippi Environmental Quality Permit Board at least thirty (30) days in advance of the proposed transfer date. Transfer or ownership change Forms can be obtained from MDEQ. [11 Miss. Admin. Code Pt. 6, R.1.1.5.C(2)., 11 Miss. Admin. Code Pt. 2, R.2.16.]

**S-6 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.

- (1) no later than 90 days prior to abandonment and
- (2) within 90 days of decommissioning the treatment works.



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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. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(11).]

## **T-1 REPORTING**

- (1) If the coveragee 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.
- (2) Calculations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Permit Board in the permit. For fecal coliform, the average shall be calculated utilizing the geometric mean. Geometric Mean is the n-th root of the product (multiplication) of n numbers. Example: Calculate the geometric mean of the numbers 2 and 32. The product of 2 times 32 equals 64. Because there are only two numbers, the n-th root is the square root, and the square root of 64 is 8. Therefore, the geometric mean of 2 and 32 is 8.
- (3) If the results for a given sample analysis are such that any parameter (other than fecal coliform) is not detected at or above the minimum level for the test method used, a value of zero will be used for that sample in calculating an arithmetic mean value for the parameter. If the resulting calculated arithmetic mean value for that reporting period is zero, the coveragee shall report "NODI = B" on The DMR. For fecal coliform, a value of 1.0 shall be used in calculating the geometric mean. If the resulting fecal coliform mean value is 1.0, the coveragee shall report "NODI = B" on the DMR. For each quantitative sample value that is not detectable, the test method used and the minimum level for that method for that parameter shall be attached to and submitted with the DMR. The coveragee shall then be considered in compliance with the appropriate effluent limitation and/or reporting requirement. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(15)(c)(2)., 11 Miss. Admin. Code Pt. 6, R.1.1.4.A(15)(c)(3)., 11Miss. Admin. Code Pt. 6, R.1.2.6.G(4).]

## **T-2 TEST PROCEDURES**

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 or alternative procedures approved and/or promulgated by EPA. For those parameters listed in Exhibit D of the Mississippi Wastewater Permit Regulations, the coveragee shall use approved methods with minimum quantification levels as sensitive as those found in Exhibit D of the regulations. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(28)(d).]

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**T-3 FALSIFYING RESULTS AND MONITORING DEVICE TAMPERING**

Any coveragee 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 Mississippi Code. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(29)(d).]

**T-4 DUTY TO COMPLY**

The coveragee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for coverage termination, revocation and reissuance, or modification; or denial of Pesticide NOI form. [40 CFR 122.41(a)]

**T-5 PROPER OPERATION, MAINTENANCE AND REPLACEMENT**

The coveragee 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 coveragee 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 coveragee 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 where necessary to confirm proper operation of a waste treatment system. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(18).]

**T-6 DUTY TO MITIGATE**

The coveragee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of the permit. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(19).]

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**T-7 BYPASS**

The coveragee shall comply with the terms and conditions of 40 CFR 122.41(m) regarding "Bypass" and as follows:

(1) Definitions. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) Notice.

(i) Anticipated bypass- If the coveragee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

(ii) Unanticipated bypass- The coveragee shall submit notice of an unanticipated bypass as required ACT 6 Condition S-4 (2) of this permit.

(3) Prohibition of bypass.

(i) Bypass is prohibited, and the Commission may take enforcement action against a coveragee unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

c. The coveragee submitted notices as required under paragraphs (2) and (3) of this permit condition.

(ii) The Commission may approve an anticipated bypass, after considering its adverse effects, if the Commission determines that it will meet the three conditions listed above in paragraph (4) of this permit condition. [40 CFR PART 122.41(m), 40 CFR Part 412.46(a)(3), 11 Miss. Admin. Code Pt. 6, R.1.1.4.A(20).]

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**T-8 UPSETS**

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

- (1) 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 coveragee. 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.
- (2) 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 paragraph (3) of this section 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 final administrative action subject to judicial review.
- (3) Conditions necessary for demonstration of upset. A coveragee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs, or other relevant evidence that:
  - (i) An upset occurred and that the coveragee can identify the cause(s) of the upset;
  - (ii) The permitted facility was at the time being properly operated;
  - (iii) The coveragee submitted notice of the upset as required in 40 CFR 122.41(L)(6)(ii)(B)(24-hour notice of noncompliance); and
  - (iv) The coveragee complied with any remedial measures required under 40 CFR 122.41(d) (Duty to Mitigate).
- (4) Burden of proof. In any enforcement proceeding the coveragee seeking to establish the occurrence of an upset has the burden of proof. [40 CFR Part 412.46(a)(3), 11 Miss. Admin. Code Pt. 6, R.1.1.4.A(27).]

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**T-9 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. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(21).]

**T-10 POWER FAILURE**

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

- (1) 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,
- (2) 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. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(22).]

**T-11 INSPECTION AND ENTRY**

The coveragee shall allow any authorized Commission representative to enter upon the coveragee'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 49-17-21 of Mississippi 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. [Miss. Code Ann. 49-17-17, 11 Miss. Admin. Code Pt. 6, R.1.1.4.A(17).]

**T-12 BIOSECURITY**

MDEQ personnel will attempt to observe all standard biosecurity measures when performing inspections authorized Condition T-11 above. [11 Miss. Admin. Code Pt. 6, Ch. 1.]

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**T-13 SIGNATORY REQUIREMENTS**

- (1) An NOI form submitted to the Permit Board shall be signed as follows:
- (i) for a corporation, by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means a president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making function for the corporation, or as defined in 40 CFR 122.22(a)(1)(ii);
  - (ii) for a partnership, by a general partner;
  - (iii) for a sole proprietorship, by the proprietor;
  - (iv) for a municipal, state or other public facility, by a principal executive officer, the mayor, or ranking elected official.
- (2) All reports required by permits, and other information requested by the Permit Board shall be signed by a person described in (1) above, or by a duly authorized representative of that person. A person is a duly authorized representative when:
- (i) the authorization is made in writing by a person described in (1) above;
  - (ii) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity including, but not limited to, the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may be either a specified individual or position); and
  - (iii) the written authorization is submitted to the Permit Board.
- (3) Any person making application for any permit, filing any record, report, or other document pursuant to a regulation of the Commission, shall certify that all information contained in such document is true, based upon information provided by responsible individuals. [11 Miss. Admin. Code Pt. 6, R.1.2.C., 11 Miss. Admin. Code Pt. 6, R.1.1.2.E(1).]

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**T-14 AVAILABILITY OF RECORDS**

Except for data determined to be confidential under the Mississippi Water Pollution Control Law, all reports prepared in accordance with the terms of this permit shall be available for public inspection and copying during normal business hours at the office of the Mississippi Department of Environmental Quality Office of Pollution Control. [11 Miss. Admin. Code Pt. 6, R.1.1.3.E.]

**T-15 DUTY TO PROVIDE INFORMATION**

The coveragee 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, terminating and reissuing, or terminating the coverage or to determine compliance with the permit. The coveragee shall also furnish to the Permit Board upon request, copies of records required to be kept by the permit. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(16)., 11 Miss. Admin. Code Pt. 2, R.2.2.B(15)(d).]

**T-16 COMPLIANCE WITH TOXIC EFFLUENT STANDARDS**

The coverage 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 Water Pollution Act. The coveragee shall comply with the applicable provisions of 40 CFR 22.42, which are incorporated herein and adopted by reference. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(26).]

**T-17 CRIMINAL AND CIVIL LIABILITY**

- (1) 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.
- (2) Except as provided in permit conditions on "By-passing" and "Upsets" (11 Miss. Admin. Code Pt. 6, R.1.1.4.A.20 and 27) nothing in a permit shall be construed to relieve the coveragee from civil or criminal penalties for noncompliance.
- (3) It shall not be the defense of the coveragee 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. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(24).]

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**T-18 OIL AND HAZARDOUS SUBSTANCE LIABILITY**

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the coveragee from any responsibilities, liabilities, or penalties to which the coveragee 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. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(23).]

**T-19 PROPERTY RIGHTS**

A permit issued by the Permit Board does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations. [11 Miss. Admin. Code Pt.2, R.2.2.B(15)(c), 11 Miss. Admin. Code Pt. 6, R.1.1.5.E.]

**T-20 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. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(25)., 11 Miss. Admin. Code Pt. 2, R.2.17., 11 Miss. Admin. Code Pt. 2, R.1.11.]

**T-21 SPILL PREVENTION AND BEST MANAGEMENT PLANS**

Any coveragee which has above ground bulk storage capacity, of more than 1,320 gallons or any single container with a capacity greater than 660 gallons, of materials and/or liquids (including but not limited to, all raw, finished and/or waste material) with chronic or acute potential for pollution impact on waters of the State and not subject to Mississippi Hazardous Waste Management Regulations or 40 CFR 112 (Oil Pollution Prevention) regulations shall provide secondary containment as found in 40 CFR 112 or equivalent protective measures such as 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. [11 Miss. Admin. Code Pt. 6, R.1.1.4.A(12).]

**T-22 REOPENER CLAUSE:**

The Permit Board may revoke and/or modify a general permit or coverage under a general permit. [11 Miss. Admin. Code Pt. 6, R.1.1.4.E., 11 Miss. Admin. Code Pt. 6, R.1.1.4.F(1).]



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**T-23 PERMIT ACTIONS**

This permit may be modified, revoked and reissued, or terminated for cause. A request by the coveragee for coverage modification, termination and recoverage, or termination, or a certification of planned changes or anticipated noncompliance does not stay any permit condition. [11 Miss. Admin. Code Pt. 6, R.1.1.5.C(5).]

**T-24 PROTECTION OF CONFIDENTIAL INFORMATION**

- (1) Pursuant to Miss. Code Ann. §§49-17-39 and 25-61-1 (The Mississippi Public Records Act of 1983), 40 CFR 123.41, and the Commission's Regulation 11 Miss. Admin. Code Pt.1, Ch. 2., *Regulations Regarding the Review and Reproduction of Public Records*, the Permit Board shall make available to the public all information contained on any form and all public comments on such information. Effluent data and information concerning air or water quality also shall be made available to the public. Information that is determined by the Commission to be trade secrets shall not be disclosed to the public without prior consent of the source of such information. When a claim of confidentiality is made by a person in accordance with the provisions of Miss. Code Ann. §49-17-39 and Regulation 11 Miss. Admin. Code Pt.1, Ch. 2., a recommendation on the questions of confidentiality shall be made by the Commission and forwarded to the Regional Administrator (or his/her designee) of EPA for his concurrence in such determination of confidentiality.
- (2) A copy of a State, UIC, or NPDES permit application, public notice, fact sheet, draft permit and other forms relating thereto, including written public comment and other reports, files and information relating to the application not classified as confidential information by the Commission pursuant to 11 Miss. Admin. Code Pt. 6, R.1.1.3.F.1., shall be available for public inspection and copying during normal business hours at the office of the Department in Jackson, Mississippi.
- (3) Upon determination by the Commission that information submitted by a permit applicant is entitled to protection against disclosure as trade secrets, the information shall be so labeled and otherwise handled as confidential. Copies of the information and a notice of the Commission's action shall be forwarded to the Regional Administrator (or his/her designee). In making its determination of the entitlement of information to protection as confidential, the Commission shall follow the procedure set forth in Regulation 11 Miss. Admin. Code Pt.1, Ch. 2. [Miss. Code Ann. 49-17-39, 11 Miss. Admin. Code Pt. 6, R.1.1.3.F.]

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**Appendix A**  
**Definitions, Abbreviations, and Acronyms**

**A.1. DEFINITIONS**

**Action Threshold** – The point at which pest populations or environmental conditions can no longer be tolerated necessitating that pest control action be taken based on economic, human health, aesthetic, or other effects. Sighting a single pest does not always mean control is needed. Action thresholds help determine both the need for control actions and the proper timing of such actions.

**Active Ingredient** – any substance (or group of structurally similar substances if specified by the Agency) that will prevent, destroy, repel or mitigate any pest, or that functions as a plant regulator, desiccant, or defoliant within the meaning of FIFRA sec. 2(a). [40 CFR 152.3] Active ingredient also means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance. [40 CFR 174.3]

**Adverse Incident** – means an incident that you have observed upon inspection or of which you otherwise become aware, in which:

- (1) A person or non-target organism may have been exposed to a pesticide residue, and
- (2) The person or non-target organism suffered a toxic or adverse effect.

The phrase “toxic or adverse effects” includes effects that occur within waters of the State on non-target plants, fish or wildlife that are unusual or unexpected (e.g., effects are to organisms not otherwise described on the pesticide product label or otherwise not expected to be present) as a result of exposure to a pesticide residue, and may include:

- Distressed or dead juvenile and small fishes
- Washed up or floating fish
- Fish swimming abnormally or erratically
- Fish lying lethargically at water surface or in shallow water
- Fish that are listless or non-responsive to disturbance
- Stunting, wilting, or desiccation of non-target submerged or emergent aquatic plants
- Other dead or visibly distressed non-target aquatic organisms (amphibians, turtles, invertebrates, etc.)

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The phrase, “toxic or adverse effects,” also includes any adverse effects to humans (e.g., skin rashes) or domesticated animals that occur either directly or indirectly from a discharge to waters of the State that are temporally and spatially related to exposure to a pesticide residue (e.g., vomiting, lethargy).

**Best Management Practices (BMPs)** – are examples of control measures that may be implemented to meet effluent limitations. These include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to minimize the discharge of pollutants to waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control spillage or leaks, waste disposal, or drainage from raw material storage. [40 CFR 122.2]

**Biological Control Agents** – These agents are organisms that can be introduced to your sites, such as herbivores, predators, parasites, and hyperparasites. [Source: US FWS IPM Guidance, 2004]

**Biological Pesticides (also called biopesticides)** - include microbial pesticides, biochemical pesticides and plant-incorporated protectants (PIP). Microbial pesticide means a microbial agent intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or dessicant, that (1) is a eucaryotic microorganism including, but not limited to, protozoa, algae, and fungi; (2) is a procaryotic microorganism, including, but not limited to, Eubacteria and Archaeobacteria; or (3) is a parasitically replicating microscopic element, including but not limited to, viruses. [40 CFR 158.2100(b)] *biological pesticides are microorganisms, including bacteria, fungi, viruses, and protozoa that are used to control target pests - they are applied in a similar to chemical pesticides*

**Biochemical Pesticide** - means a pesticide that (1) is a naturally-occurring substance or structurally-similar and functionally identical to a naturally-occurring substance; (2) has a history of exposure to humans and the environment demonstrating minimal toxicity, or in the case of a synthetically-derived biochemical pesticides, is equivalent to a naturally-occurring substance that has such a history; and (3) Has a non-toxic mode of action to the target pest(s). [40 CFR 158.2000(a)(1)]

**Plant-Incorporated Protectant** - means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for production of such a pesticidal substance. It also includes any inert ingredient contained in the plant, or produce thereof. [40 CFR 174.3]

**Chemical Pesticides** – all pesticides not otherwise classified as biological pesticides.

**Control Measure** – refers to any BMP or other method used to meet the effluent limitations. Control measures must comply with manufacturer specifications, industry standards and recommended industry practices related to the application of pesticides, and relevant legal requirements. Additionally, control measures could include other actions that a prudent operator would implement to reduce and/or

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eliminate pesticide discharges to waters of the State to comply with the effluent limitations in this permit.

**Cultural Methods** - manipulation of the habitat to increase pest mortality by making the habitat less suitable to the pest. [U.S. Environmental Protection Agency 2010 NPDES Draft Pesticides General Permit]

**Declared Pest Emergency Situation** – An event defined by a public declaration by a federal agency, state, or local government of a pest problem determined to require control through application of a pesticide beginning less than ten days after identification of the need for pest control. This public declaration may be based on:

- (1) Significant risk to human health;
- (2) Significant economic loss; or
- (3) Significant risk to:
  - (i) Endangered species,
  - (ii) Threatened species,
  - (iii) Beneficial organisms, or
  - (iv) The environment. [40 CFR 166]

**Director** – a Regional Administrator of the Environmental Protection Agency or an authorized representative. [excerpted from 40 CFR 122.2]

**Discharge** – when used without qualification, means the "discharge of a pollutant." [40 CFR 122.2]

**Discharge of a pollutant** – any addition of any “pollutant” or combination of pollutants to “waters of the United States” from any “point source,” or any addition of any pollutant or combination of pollutants to the water of the “contiguous zone” or the ocean from any point source other than a vessel or other floating craft that is being used as a means of transportation. This includes additions of pollutants into waters of the State from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. [Excerpted from 40 CFR 122.2]

**EPA Approved or Established Total Maximum Daily Loads (TMDLs)** – “EPA Approved TMDLs” are those that are developed by a State and approved by EPA. “EPA Established TMDLs” are those that are issued by EPA.

**Establishment** – generally, a single physical location where business is conducted or where services or industrial operations are performed (e.g., factory, mill, store, hotel, movie theater, mine, farm, airline terminal, sales office, warehouse, or central administrative office).

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**Facility or Activity** – any NPDES “point source” (including land or appurtenances thereto) that is subject to regulation under the NPDES program. [40 CFR 122.2]

**Federal Facility** – any buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned, operated, or leased by, or constructed or manufactured for the purpose of leasing to, the federal government.

**For-Hire Applicator** -Includes persons who make contractual pesticide applications for which they or their employer receives compensation (e.g., lawn care firms, pest control companies).

**Impaired Water** (or “Water Quality Impaired Water” or “Water Quality Limited Segment”) – A water is impaired for purposes of this permit if it has been identified by a State, Territory, Tribe or EPA pursuant to Section 303(d) of the Clean Water Act as not meeting applicable State, Territorial, or Tribal water quality standards (these waters are called “water quality limited segments” under 40 CFR 130.2(j)). Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

**Inert Ingredient** -any substance (or group of structurally similar substances if designated by the Agency), other than an active ingredient, that is intentionally included in a pesticide product. [40 CFR 152.3] Inert ingredient also means any substance, such as a selectable marker, other than the active ingredient, where the substance is used to confirm or ensure the presence of the active ingredient, and includes the genetic material necessary for the production of the substance, provided that genetic material is intentionally introduced into a living plant in addition to the active ingredient. [40 CFR 174.3]

**Large Entity** – MDEQ defines large entities as any public entity serving over 10,000 people or any private entity that exceeds the Small Business Administration (SBA) size standard. SBA size standards can be found in 13 CFR 121 or email the SBA @ [sizestandards@sba.gov](mailto:sizestandards@sba.gov) or call them by phone at (202) 205-6618

**Mechanical/Physical Methods** - mechanical tools or physical alterations of the environment, for pest prevention or removal.

**Minimize** - to reduce and/or eliminate pesticide discharges to waters of the State through the use of “control measures” to the extent technologically available and economically practicable and achievable.

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**Non-target Organisms** – includes the plant and animal hosts of the target pest, the natural enemies of the target pest living in the community, and other plants and animals, including vertebrates, living in or near the community that are not the target of the pesticide.

**North American Industry Classification System (NAICS)** – developed under the direction and guidance of the U.S. Office of Management and Budget (OMB) as the standard for use by Federal statistical agencies in classifying business establishments for the collection, tabulation, presentation, and analysis of statistical data describing the U.S. economy. NAICS is scheduled to be reviewed every 5 years for potential revisions with the most recent version being completed in 2007. Under NAICS, an establishment is generally a single physical location where business is conducted or where services or industrial operations are performed (e.g., factory, mill, store, hotel, movie theater, mine, farm, airline terminal, sales office, warehouse, or central administrative office). An enterprise, on the other hand, may consist of more than one location performing the same or different types of economic activities. Each establishment of that enterprise is assigned a NAICS code based on its own primary business activity. Ideally, the primary business activity of an establishment is determined by relative share of production costs and/or capital investment. In practice, other variables, such as revenue, value of shipments, or employment, are used as proxies. For this permit, the U.S. Environmental Protection Agency uses revenue or value of shipments to determine an establishment's primary business activity. Details of NAICS are available on the Internet at <http://www.census.gov/eos/www/naics/index.html>.

**Operator** – includes decision – makers and applicators or any entity involved in the application of a pesticide that result in a discharge to waters of the State that meets either or both of the following two criteria:

- (i) The entity has control over the financing for, or the decision to perform pesticide applications that result in discharges, including the ability to modify those decisions; or
- (ii) The entity has day-to-day control of or performs activities that are necessary to ensure compliance with the permit (e.g., they are authorized to direct workers to carry out activities required by the permit or perform such activities themselves).

**Person** – an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof.

**Pest** – Consistent with 40 CFR 152.5, any organism under circumstances that make it deleterious to man or the environment, if it is:

- (a) Any vertebrate animal other than man;
- (b) Any invertebrate animal, including but not limited to, any insect, other arthropod, nematode, or mollusk such as a slug and snail, but excluding any internal parasite of living man or other living animals;
- (c) Any plant growing where not wanted, including any moss, alga, liverwort, or other plant of any higher order, and any plant part such as a root; or

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- (d) Any fungus, bacterium, virus, or other microorganism, except for those on or in living man or other living animals and those on or in processed food or processed animal feed, beverages, drugs (as defined in FFDCa sec. 201(g)(1)) and cosmetics (as defined in FFDCa sec. 201(i)).

**Pest Management Area** – The area of land, including any water, for which you are conducting pest management activities covered by this permit.

**Pesticide** – means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer, except that the term “pesticide” shall not include any article that is a “new animal drug” within the meaning of section 201(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(w)), that has been determined by the Secretary of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of section 201(x) of such Act (21 U.S.C. 321(x)) bearing or containing a new animal drug. The term “pesticide” does not include liquid chemical sterilant products (including any sterilant or subordinate disinfectant claims on such products) for use on a critical or semi-critical device, as defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). For purposes of the preceding sentence, the term “critical device” includes any device that introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body and the term “semi-critical device” includes any device that contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body. [FIFRA Section 2(u)]

The term “pesticide” applies to insecticides, herbicides, fungicides, rodenticides, and various other substances used to control pests. The definition encompasses all uses of pesticides authorized under FIFRA including uses authorized under sections 3 (registration), 5 (experimental use permits), 18 (emergency exemptions), 24(c) (special local needs registrations), and 25(b) (exemptions from FIFRA).

Note: drugs used to control diseases of humans or animals (such as livestock and pets) are not considered pesticides; such drugs are regulated by the Food and Drug Administration. Fertilizers, nutrients, and other substances used to promote plant survival and health are not considered plant growth regulators and thus are not pesticides. Biological control agents, except for certain microorganisms, are exempted from regulation under FIFRA. (Biological control agents include beneficial predators such as birds or ladybugs that eat insect pests, parasitic wasps, fish, etc).

*This permit uses the term “pesticide” when referring to the “pesticide, as applied.” When referring to the chemical in the pesticide product with pesticidal qualities, the permit uses the term “active ingredient.”*

**Pesticide Product** – a pesticide in the particular form (including composition, packaging, and labeling) in which the pesticide is, or is intended to be, distributed or sold. The term includes any physical apparatus used to deliver or apply the pesticide if distributed or sold with the pesticide.

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**Pesticide Research and Development** – Activities undertaken on a systematic basis to gain new knowledge (research) and/or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes (experimental development). These types of activities are generally categorized under the four-digit code of 5417 under the 2007 NAICS.

**Pesticide Residue** – includes that portion of a pesticide application that is discharged from a point source to waters of the US and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.

**Point source** – any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff. [40 CFR 122.2]

**Pollutant** – dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. For purposes of this definition, a “biological pesticide” is considered a “biological material,” and any “pesticide residue” resulting from use of a “chemical pesticide” is considered a “chemical waste.” [excerpted from 40 CFR 122.2]

**Target Pest** – the organism toward which pest control measures are being directed.

**Tier 3 Waters** – For antidegradation purposes, pursuant to 40 CFR 131.12(a)(3), Tier 3 waters are identified by States, Territories, or Tribes as having high quality waters constituting an Outstanding National Resource Water (ONRW), such as waters of National Parks and State Parks, wildlife refuges, and waters of exceptional recreational or ecological significance. That high water quality shall be maintained and protected.

**Total Maximum Daily Loads (TMDLs)** – A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges; load allocations (LAs) for nonpoint sources and/or natural background, and must include a margin of safety (MOS) and account for seasonal variations. [See section 303(d) of the Clean Water Act and 40 CFR 130.2 and 130.7]

**Treatment Area** – The area of land including any waters, or the linear distance along water's edge, to which pesticides are being applied. Multiple treatment areas may be located within a single “pest management area.” The “treatment area” includes the entire area, whether over land or water, where the pesticide application is intended to provide pesticidal benefits. In some instances, the treatment area will be larger than the area where pesticides are actually applied. For example, the treatment area for a stationary drip



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treatment into a canal should be calculated by multiplying the width of the canal by the length over which the pesticide is intended to control weeds. The treatment area for a lake or marine area is the water surface area where the application is intended to provide pesticidal benefits. Treatment area calculations for pesticide applications that occur “at water’s edge”, where the discharge of pesticides directly to waters is unavoidable, are determined by the linear distance over which pesticides are applied. For example, treating both sides of a five-mile-long river, stream, or ditch is equal to ten miles of treatment area. Treating five miles of shoreline or coast would equal a five-mile treatment area.

**Waters of the States** – "Waters of the State" means all waters within the jurisdiction of this State, including all streams, lakes, ponds, wetlands, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, situated wholly or partly within or bordering upon the State, and such coastal waters as are within the jurisdiction of the State, except lakes, ponds, or other surface waters which are wholly landlocked and privately owned, and which are not regulated under the Federal Clean Water Act (33 U.S.C.1251, et seq.).

**Water Quality Impaired** – See ‘Impaired Water’.

**Water Quality Standards** – A water quality standard defines the water quality goals of a water body, or portion thereof, by designating the use or uses to be made of the water and by setting criteria necessary to protect the uses. Water quality standards also include an antidegradation policy and implementation procedures. See P.U.D. o. 1 of Jefferson County et al v. Wash Dept of Ecology et al, 511 US 701, 705 (1994). States, Territories, Tribes and EPA adopt water quality standards to protect public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act (See CWA sections 101(a)2 and 303(c)). Where necessary, EPA has the authority to promulgate federal water quality standards.

**Wetlands** - means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. [40 CFR 122.2]

**“You” and “Your”** – as used in this permit are intended to refer to the operator as the context indicates and that party’s activities or responsibilities.

## **A.2. ABBREVIATIONS AND ACRONYMS**

BAT – Best Available Technology Economically Achievable  
BMP – Best Management Practice  
BPJ – Best Professional Judgment  
BPT– Best Practicable Control Technology Currently Available

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CERCLA – Comprehensive Environmental Response, Compensation and Liability Act CWA – Clean Water Act (or the Federal Water Pollution Control Act, 33 U.S.C. §1251 *et seq*)  
EPA – U. S. Environmental Protection Agency  
ESA – Endangered Species Act  
FIFRA – Federal Insecticide, Fungicide, and Rodenticide Act, 7 USC 136  
*et seq.* FWS – U. S. Fish and Wildlife Service  
NAICS – North American Industry Classification System  
NEPA – National Environmental Policy Act  
NHPA – National Historic Preservation Act  
NMFS – U. S. National Marine Fisheries Service  
PNOI – Pesticide Notice of Intent  
NOT – Notice of Termination  
NPDES – National Pollutant Discharge Elimination System  
NRC – National Response Center  
NRHP – National Register of Historic Places  
ONRW – Outstanding National Resource Water  
PDMP – Pesticide Discharge Management Plan  
SARA – Superfund Amendments and Reauthorization Act  
SHPO – State Historic Preservation Officer  
THPO – Tribal Historic Preservation Officer  
TMDL – Total Maximum Daily Load  
WQS – Water Quality Standard