



STATE OF MISSISSIPPI

POLLUTION CONTROL GENERAL PERMIT TO MANAGE MANURE/LITTER AND/OR DISCHARGE STORM WATER

IN ACCORDANCE WITH THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
AND MISSISSISSIPPI'S AMBIENT AIR QUALITY STANDARDS

THIS CERTIFIES

Concentrated Animal Feeding Operation (CAFO)
facilities granted a Certificate of Permit Coverage under this permit have permission to:

- operate a concentrated animal feeding operation (CAFO)
- discharge storm water associated with agricultural activities into State waters 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 Pollution 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(b) of the Federal Water Pollution Control Act.

Mississippi Environmental Quality Permit Board

Mississippi Department of Environmental Quality

Issued:

Permit No. MSG22

Expires:

Agency Interest 80108

*** Draft Permit ***

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ACT1 (CAFO GP) APPLICABILITY:

T-1 PERMIT AREA:

This permit covers all areas of the State of Mississippi. [11 Miss. Admin. Code Pt. 2, Ch. 2., 11 Miss. Admin. Code Pt. 6, Ch. 1.]

T-2 ELIGIBILITY:

This permit may provide coverage for a new and existing farm classified as a CAFO that fall under Standard Industrial Classifications (SIC) 0211 (beef cattle feedlots), 0213 (swine), 0214 (sheep and goats), 0241 (dairy), 0251 (broiler, fryer, and roaster chickens), 0252 (chicken eggs), 0253 (turkeys and turkey eggs), 0254 (poultry hatcheries), 0259 (poultry and eggs not elsewhere classified), or 0272 (horses), and seeking to obtain permit coverage under paragraph(s) (1) and (2) below:

NPDES permit coverage for farming identified by the SIC Codes above and associated with the operation of:

- (1) a Large Concentrated Animal Feeding Operation (“Large CAFO”) as defined in ACT9 Condition T-7, of this permit, or
- (2) a Medium Concentrated Animal Feeding Operation (“Medium CAFO”) as defined in ACT9 Condition T-10 of this permit, and
- (3) generates no process wastewater discharge, and
- (4) has no waste or raw material exposed to storm water rainfall or runoff.

T-3 AUTHORIZATION:

Applicants are authorized to operate a CAFO as identified in T-2 above under the terms and conditions of this permit only upon receipt of written notification of approval of coverage by the Mississippi Department of Environmental Quality (MDEQ), Office of Pollution Control (OPC) staff. Upon review of the CAFO Notice of Intent (NOI), the staff may deny coverage and require an alternate permit. The OPC staff decisions may be brought before the MDEQ Permit Board for review and reconsideration at a regularly scheduled meeting. Operating a CAFO without written notification of coverage or issuance of an individual National Pollutant Discharge Elimination System (NPDES) Permit is a violation of state law. [11 Miss. Admin. Code Pt. 2, Ch. 2., 11 Miss. Admin. Code Pt. 6, Ch. 1.]

ACT2 (CAFO GP) OBTAINING COVERAGE OR RECOVERY:

S-1 REQUIRED SUBMITTALS TO OBTAIN COVERAGE OR RECOVERY:

(1) Applicants must submit a CAFO Notice of Intent (NOI), Appendix A of the CAFO Forms Package, in accordance with the requirements of this permit, and

(2) Applicants must develop, sign, implement, and submit a Nutrient Management Plan (NMP) in accordance with the requirements found in ACT7 Conditions T-1, T-2, and T-3 of this permit and 40 CFR 122.42 (e)(5). Appendix I of the CAFO Forms Package is to be used as a cover letter for all NMPs.

New and expanding operations are required to follow (1) and (2) above and where applicable the conditions found in ACT3 of this permit.

The CAFO NOI form for coverage/re-coverage can be found in Appendix A of the CAFO Forms Package. CAFO forms, as well as the general permit and guidance materials, may also be found on the MDEQ web site at www.mdeq.ms.gov or obtained by calling 601-961-5171. Coverage/Recovery under this permit will not be granted until all other required MDEQ permits, certifications and approvals are satisfactorily addressed. [40 CFR Part 122.21(i)(1), 40 CFR 122.42 (e)(5), 40 CFR Part 412.4(c), 11 Miss. Admin. Code Pt. 6, 1.1.4.A(12)(c), 11 Miss. Admin. Code Pt. 6, 1.1.4.H(4)(b).]

T-1 DEADLINES FOR APPLYING FOR COVERAGE AND RECOVERY:

(1) Persons seeking coverage for a new source under this general permit shall submit a CAFO NOI form at least 180 days prior to the commencement of a covered activity.

(2) Persons seeking coverage or recovery for an existing source under this general permit shall submit a CAFO NOI form within 90 days of reissued general permit. MDEQ reserves the right to require existing sources to submit a CAFO NOI form prior to the above mentioned date.

[11 Miss. Admin. Code Pt. 6, R. 1.1.5.B(1), 11 Miss. Admin. Code Pt. 6, R. 1.1.5.B(4), 11 Miss. Admin. Code Pt. 6, R. 1.1.5.B(6), 11 Miss. Admin. Code Pt. 2, R. 2.11.G.]

ACT2 (CAFO GP) OBTAINING COVERAGE OR RECOVERY (continued):

T-2 HOW TO SUBMIT THE CAFO FORMS AND SUPPORTING DOCUMENTS:

Complete and appropriately signed CAFO forms and supporting documents must be submitted through MDEQ's webpage: [NOI eSubmittals – MDEQ](#).

[11 Miss. Admin. Code Pt. 2, Ch. 2., 11 Miss. Admin. Code Pt. 6, Ch. 1.]

T-3 REQUIRING OR REQUESTING AN INDIVIDUAL PERMIT:

Any facility covered or eligible to be covered under a general permit may be required to obtain an individual permit at the discretion of the Permit Board. Any facility covered by a general permit may request to be excluded from such coverage by applying for an individual permit. Coverage under the general permit is automatically terminated upon issuance of an individual permit. Any facility excluded from coverage under a general permit solely because it is already covered under an individual permit may request that the individual permit be revoked and that it be covered by the general permit. Any interested person may petition the Permit Board to take action under this paragraph. [11 Miss. Admin. Code Pt. 2, 2.11.C., 11 Miss. Admin. Code Pt. 6, 1.1.4.E.]

T-4 PUBLIC NOTIFICATION OF RECEIPT OF NOI AND NMP FOR RECOVERY:

When an NOI or an updated NMP is received, the NOI or updated NMP Form will be scanned and placed on MDEQ's web site at the following web address www.mdeq.ms.gov for a minimum of 10 days and the most recent version of the NMP will be available for public review at MDEQ's office. [40 CFR Part 122.42 (e)(6)(A), 40 CFR Part 122.42 (e)(6)(B), 11 Miss. Admin. Code Pt. 2, 2.11.C., 11 Miss. Admin. Code Pt. 6, 1.1.4.E(1)., 11 Miss. Admin. Code Pt. 6, 1.1.4.E(2)., 11 Miss. Admin. Code Pt. 6, 1.1.4.F(1).]

ACT3 (CAFO GP) APPLICABLE REQUIREMENTS FOR NEW AND EXPANDING SOURCES:

S-1 CONTIGUOUS LANDOWNER NOTIFICATION:

An applicant for a new or expanding facility must send a notification, using Appendix K of the Concentrated Animal Feeding Operations Forms Package, to contiguous landowners of the proposed facility via certified-return receipt requested (CRRR) mail. The applicant must submit copies of the signed CRRR receipts which the applicant received or copies of the certificate of mailings, a copy of the land tax records map obtained from the tax assessor office that identifies all contiguous landowners, and a completed copy of the notification form with the applicant's CAFO NOI. Failure to notify the contiguous landowners may result in denial or revocation of coverage. Contiguous landowner notification is not required if the facility existed and operated prior to the issuance date of this permit as long as the applicant does not propose an increase in the number of animal houses.

The applicant, in giving this notification to contiguous landowners:

- (1) Must use the most use the most recent tax assessor records, in the county of the proposed project, to identify the names and addresses of the contiguous landowners. The applicant must mail the contiguous landowner notifications to these names and addresses
- (2) Is not required to inquire or investigate further than the most recent tax assessor records to determine the names and addresses of the contiguous landowners.
- (3) Is not required to send any additional notifications to contiguous landowners as long as the applicant follows the above procedures.

If the applicant does not receive all the signed CRRR receipts within 30 days from the contiguous landowner notification postmark date, the Permit Board may issue coverage under the General Permit without further delay.

For a new or expanding facility, once the required submittals are deemed administratively complete, notification of the proposed project will be placed on MDEQ's website for a minimum of 10 days. Contiguous landowners who receive such notifications must submit written comments, if any, to the Mississippi Department of Environmental Quality within 30 days after the postmark date of the notification or by the end of the MDEQ 10-day online notification period as described in ACT3 Condition S-3 below, whichever is later. [11 Miss. Admin. Code Pt. 6, R. 1.1.3.]

ACT3 (CAFO GP) APPLICABLE REQUIREMENTS FOR NEW AND EXPANDING SOURCES (continued):

S-2 NEW SOURCE SWINE, POULTRY AND VEAL CALVES:

(1) All open surface manure storage structures associated with swine, poultry, or veal calf new sources must include a depth marker which clearly indicates the minimum capacity necessary to contain the maximum runoff and direct precipitation associated with the design storm used in sizing the impoundment for no discharge.

(2) For any new source swine, poultry, or veal calf CAFO, there must be no discharge of manure, litter, or process wastewater pollutants into waters of the U.S. from the production area. Any CAFO may request that the Director establish NPDES permit best management practice effluent limitations designed to ensure no discharge of manure, litter, or process wastewater based upon a site-specific evaluation of the CAFO's open surface manure storage structure. The NPDES permit best management practice effluent limitations must address the CAFO's entire production area. In the case of any CAFO using an open surface manure storage structure for which the Director establishes such effluent limitations, "no discharge of manure, litter, or process wastewater pollutants," as used in this section, means that the storage structure is designed, operated, and maintained in accordance with best management practices established by the Director on a site-specific basis after a technical evaluation of the storage structure. The technical evaluation must address the following elements:

(i) Information to be used in the design of the open manure storage structure including, but not limited to, the following: minimum storage periods for rainy seasons, additional minimum capacity for chronic rainfalls, applicable technical standards that prohibit or otherwise limit land application to frozen, saturated, or snow-covered ground, planned emptying and dewatering schedules consistent with the CAFO's Nutrient Management Plan, additional storage capacity for manure intended to be transferred to another recipient at a later time, and any other factors that would affect the sizing of the open manure storage structure.

(ii) The design of the open manure storage structure as determined by the most recent version of the National Resource Conservation Service's Animal Waste Management (AWM) software. CAFOs may use equivalent design software or procedures as approved by the Director.

(iii) All inputs used in the open manure storage structure design including actual climate data for the previous 30 years consisting of historical average monthly precipitation and evaporation values, the number and types of animals, anticipated animal sizes or weights, any added water and bedding, any other process wastewater, and the size and condition of outside areas exposed to rainfall and contributing runoff to the open manure storage structure.

(iv) The planned minimum period of storage in months including, but not limited to, the factors for designing an open manure storage structure listed in (1) of this condition. Alternatively, the CAFO may determine the minimum period of storage by specifying times the storage pond will be emptied consistent with the CAFO's Nutrient Management Plan.

(v) Site-specific predicted design specifications including dimensions of the storage facility, daily manure and wastewater additions, the size and characteristics of the land application areas, and the total calculated storage period in months.

ACT3 (CAFO GP) APPLICABLE REQUIREMENTS FOR NEW AND EXPANDING SOURCES (continued):

S-2 NEW SOURCE SWINE, POULTRY AND VEAL CALVES (continued):

(vi) An evaluation of the adequacy of the designed manure storage structure using the most recent version of the Soil Plant Air Water (SPAW) Hydrology Tool. The evaluation must include all inputs to SPAW including but not limited to daily precipitation, temperature, and evaporation data for the previous 100 years, user-specified soil profiles representative of the CAFO's land application areas, planned crop rotations consistent with the CAFO's Nutrient Management Plan, and the final modeled result of no overflows from the designed open manure storage structure. For those CAFOs where 100 years of local weather data for the CAFO's location is not available, CAFOs may use a simulation with a confidence interval analysis conducted over a period of 100 years. The Director may approve equivalent evaluation and simulation procedures.

(vii) The Director may waive the requirement of (vi) above for a site-specific evaluation of the designed manure storage structure and instead authorize a CAFO to use a technical evaluation developed for a class of specific facilities within a specified geographical area.

(viii) Waste management and storage facilities designed, constructed, operated, and maintained consistent with the analysis conducted in (i) through (vii) above and operated in accordance with the additional measures and records required by ACT5 Conditions R-1, R-3, R-4, and R-5, will fulfill the requirements of this section.

(ix) The Director has the discretion to request additional information to support a request for effluent limitations based on a site-specific open surface manure storage structure. [40 CFR Part 412.37(a)(2), 40 CFR Part 412.37(b), 40 CFR Part 412.46(a)(1)]

S-3 For a new or expanding facility, once the required submittals are deemed administratively complete, notification of the proposed project will be placed on MDEQ's website for a minimum of 10 days. These online notifications can be found at the following link: www.mdeq.ms.gov. A facility is not considered to be new or expanding if the facility was in existence prior to the issuance date of this permit and no increase in the number of houses is proposed. [11 Miss. Admin. Code Pt. 6, Ch. 1.]

T-1 PLANS AND SPECIFICATIONS:

All plans and specifications submitted to the Department must be developed by a professional engineer who holds a valid certificate of registration as a professional engineer issued by the Mississippi State Board of Registration for Professional Engineers and Land Surveyors. [11 Miss. Admin. Code Pt. 6, R. 1.1.6.B(7).]

T-2 Wastewater retention facilities, waste retention facilities, and holding pens shall not be constructed in Waters of the State. [11 Miss. Admin. Code Pt. 6.]

T-3 Wastewater retention facilities, waste retention facilities, and holding pens shall not be built in the 100-year flood plain unless the facility is protected from inundation and damage that may occur during that flood event. [11 Miss. Admin. Code Pt. 6.]

ACT4 (CAFO GP) CAFO LIMITATION REQUIREMENTS:

L-1 Buffer Zone: PRODUCTION AREA:

Any facility for the treatment or disposal of animal wastes or the housing of a concentrated and confined animal growing operation (excluding any facility for the housing of broiler pullets, broiler breeders and broilers in a poultry operation that generates dry litter or waste unless such facility has a continuous overflow watering system) must be at least 1000 feet from the nearest non-owned (by the applicant) occupied dwelling or commercial establishment and at least 300 feet from the nearest adjoining property line.

A facility which has previously satisfied buffer zone requirements shall not be required to reestablish compliance with those requirements at the reissuance, modification or transference of the permit or at reconstruction/replacement of the facility, unless the facility proposes expansion. The Buffer Zone Waiver form can be found in Appendix L of the CAFO Forms Package. [11 Miss. Admin. Code Pt. 6, R. 1.1.1.C(2)., 11 Miss. Admin. Code Pt. 6, R. 1.1.1.C(2)(c).]

L-2 Buffer Zone: LAND APPLICATION AREA:

Land application of animal waste (excluding dry litter waste) must be at least 50 feet from the nearest adjoining property line and at least 300 feet from the nearest non-owned (by the applicant) occupied dwelling. [11 Miss. Admin. Code Pt. 6, R. 1.1.1.C(2)(D).]

L-3 Buffer Zone: ADDITIONAL REQUIREMENTS:

Unless the CAFO exercises one of the compliance alternatives provided for in paragraph (1) or (2) below, manure, litter, and process wastewater may not be applied closer than 100 feet to any down-gradient surface waters, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters.

(1) Vegetated buffer compliance alternative. As a compliance alternative, the CAFO may substitute the 100-foot setback with a 35-foot wide vegetated buffer where applications of manure, litter, or process wastewater are prohibited.

(2) Alternative practices compliance alternative. As a compliance alternative, the CAFO may demonstrate that a setback or buffer is not necessary because implementation of alternative conservation practices or field-specific conditions will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100-foot setback. [40 CFR Part 412.4(c)(5), 40 CFR Part 412.31(b)(1), 40 CFR 412.43(b)]

ACT4 (CAFO GP) CAFO LIMITATION REQUIREMENTS (continued):

L-4 DISCHARGE PROHIBITION FOR CAFO PRODUCTION AREAS:

Except as provided in paragraph (1) below, there must be no discharge of manure, litter, or process wastewater pollutants into waters of the U.S. from the production area.

(1) Whenever precipitation causes an overflow of manure, litter, or process wastewater, pollutants in the overflow may be discharged into U.S. waters provided:

(i) New source swine poultry, and veal calf CAFOs must comply with ACT3, S-2 and S-3. For all other CAFOs, the production area is to be designed, constructed, operated and maintained to contain all manure, litter, and process wastewater including the runoff and the direct precipitation from a 25-year, 24-hour rainfall event.; and

(ii) the production area is operated in accordance with the additional measures and records required by ACT5 Conditions R-1, R3, R-4, and R-5. [40 CFR Part 412.15, 40 CFR Part 412.25, 40 CFR Part 412.31(a)(1), 40 CFR Part 412.43(a)]

L-5 Wastewater shall not be applied when the ground is frozen, saturated, or during rainfall events. [11 Miss. Admin. Code Pt. 6.]

ACT5 (CAFO GP) CAFO RECORDKEEPING REQUIREMENTS:

R-1 RECORD KEEPING REQUIREMENTS FOR THE PRODUCTION AREAS:

Each CAFO must create, maintain on site or locally available for a period of five years from the date they are created, and upon request make available to the Permit Board a complete copy of the information required by 40 CFR 122.21(i)(1), 40 CFR 122.42(e)(1)(ix) and the following records:

- (1) Records documenting the inspections required under ACT5 Condition R-3 (Appendices B and C of the CAFO Forms Package);
- (2) Weekly records of the depth of the manure and process wastewater in the liquid impoundment as indicated by the depth marker under ACT3 Condition S-2(1) or ACT5 Condition R-4 (Appendix E of the CAFO Forms Package);
- (3) Records documenting any actions taken to correct deficiencies required under ACT5 Condition R-3. Deficiencies not corrected within 30 days must be accompanied by an explanation of the factors preventing immediate correction;
- (4) Records of mortalities management and practices used by the CAFO to meet the requirements of ACT5 Condition R-5.
- (5) Records documenting the current design of any manure or litter storage structures, including volume for solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity;
- (6) Records of the date, time, and estimated volume of any overflow. [40 CFR Part 412.37(b), 40 CFR Part 122.42 (e)(2)(i)(B)]

R-2 RECORDKEEPING REQUIREMENTS FOR THE LAND APPLICATION AREAS:

Each CAFO must create, maintain on site or locally available for a period of five years from the date they are created, and upon request make available to the Permit Board a complete copy of the information required by §412.4 and 40 CFR 122.42(e)(1)(ix) and the records specified in paragraphs (1) through (10) of this section.

- (1) Expected crop yields;
- (2) The date(s) manure, litter, or process wastewater is applied to each field (Appendix F of the CAFO Forms Package);
- (3) Weather conditions at time of application and for 24 hours prior to and following application (Appendix F of CAFO Forms Package);
- (4) Test methods used to sample and analyze manure, litter, process wastewater, and soil;
- (5) Results from manure, litter, process wastewater, and soil sampling;
- (6) Explanation of the basis for determining manure application rates, as provided in the technical standards established by the Director.
- (7) Calculations showing the total nitrogen and phosphorus to be applied to each field, including sources other than manure, litter, or process wastewater;
- (8) Total amount of nitrogen and phosphorus applied to each field, including documentation of calculations for the total amount applied;
- (9) The method used to apply the manure, litter, or process wastewater;
- (10) Date(s) of manure application equipment inspection (Appendix D of the CAFO Forms Package). [40 CFR Part 412.37(c), 40 CFR Part 122.42 (e)(2)(i)(B), 40 CFR Part 412.31 (b)(2), 40 CFR Part 412.43(b)]

ACT5 (CAFO GP) CAFO RECORDKEEPING REQUIREMENTS (continued):

R-3 INSPECTION AND CORRECTIVE ACTION REQUIREMENTS:

The inspections and corrective action identified below must be documented on Appendices B and C of the CAFO Forms Package and maintained on site or locally available for a period of five years from the date they are created and made available to the Permit Board upon request. At a minimum, the following routine visual inspections of the CAFO production area must be completed and corrective action taken:

- (1) Weekly visual inspections of all storm water diversion devices, runoff diversion structures, and devices channeling contaminated storm water to the wastewater and manure storage and containment structure (Appendix C);
- (2) Daily visual inspections of water lines, including drinking water or cooling water lines (Appendix B);
- (3) Weekly visual inspections of the manure, litter, and process wastewater impoundments; the inspection will note the level in liquid impoundments as indicated by the depth marker in ACT3 Condition S-2(1) or ACT 5 Condition R-4. (Appendix C);
- (4) Correct any deficiencies found as a result of the inspections required above as soon as possible and document the corrective action(s) taken. [40 CFR Part 412.37(a)(1), 40 CFR Part 412.37(a)(3), 40 CFR Part 412.37(b)].

R-4 DEPTH MARKER:

All open surface liquid impoundments must have a depth marker which clearly indicates the minimum capacity necessary to contain the runoff and direct precipitation of the 25-year, 24-hour rainfall event. For new source swine, poultry, and veal calves CAFOs, see ACT3, S-2(1).[40 CFR Part 412.37(a)(2), 40 CFR Part 412.37(b)]

R-5 MORTALITY HANDLING:

Mortalities must be disposed in accordance with all applicable requirements as set forth by the State Board of Animal Health. Mortalities must not be disposed of in any liquid manure or process wastewater system and must be handled in such a way as to prevent the discharge of pollutants to surface water, unless alternative technologies pursuant to 40 CFR Part 412.31(a)(2) and approved by the Director are designed to handle mortalities. [40 CFR Part 412.37(a)(4), 40 CFR Part 412.37(b)].

R-6 MANURE AND SOIL SAMPLING:

Manure must be analyzed a minimum of once annually for nitrogen and phosphorus content, and soil from the land application area analyzed a minimum of once every five years for phosphorus content. The results of these analyses are to be used in determining application rates for manure, litter, and other process wastewater. The analyses must be maintained on site or locally available for a period of five years from the date they are created, and upon request make available to the Permit Board. [40 CFR Part 412.4(c)(3), 40 CFR Part 412.31(b)(1), 40 CFR 412.43(b)].

ACT5 (CAFO GP) CAFO RECORDKEEPING REQUIREMENTS (continued):

R-7 INSPECT LAND APPLICATION EQUIPMENT FOR LEAKS:

The operator must periodically inspect equipment used for land application of manure, litter, or process wastewater. The inspections shall be documented on Appendix D of the CAFO Forms Package and the documentation maintained on site or locally available for a period of five years from the date they are created and make available to the Permit Board upon request. [40 CFR Part 412.4(c)(4), 40 CFR Part 412.31(b)(1), 40 CFR 412.43(b)]

R-8 REQUIREMENTS RELATING TO TRANSFER OF MANURE, LITTER, OR PROCESS WASTEWATER TO OTHER PERSONS:

Prior to transferring manure, litter or process wastewater to other persons, CAFOs must provide the recipient of the manure, litter or process wastewater with the most current nutrient analysis. The analysis provided must be consistent with the requirements of 40 CFR Part 412. CAFOs must retain for five years records of the date, recipient name and address, and approximate amount of manure, litter or process wastewater transferred to another person. These records must be documented on Appendix G of the CAFO Forms Package. [40 CFR Part 122.42(e)(3)]

R-9 A rain gauge shall be kept on site and properly maintained. Appendix E of the CAFO Forms Package may be used to document the measurable rainfall events. [11 Miss. Admin. Code Pt. 6.]

ACT6 (CAFO GP) CAFO SUBMITTAL REQUIREMENTS:

S-1 ANNUAL REPORTING REQUIREMENTS FOR CAFOS:

The coveragee must submit annual reports through MDEQ's webpage: www.mdeq.ms.gov/noi_esubmittals/. The annual reports are due by the 28th of January to the Permit Board. The following information must be documented on Appendix H of the CAFO Forms Package:

- (1) The number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
- (2) Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/gallons);
- (3) Estimated amount of total manure, litter and process wastewater transferred to other person by the CAFO in the previous 12 months (tons/gallons);
- (4) Total number of acres for land application covered by the nutrient management plan developed in accordance with 40 CFR 122.42 (e)(1);
- (5) Total number of acres under control of the CAFO that were used for land application of manure, litter and process wastewater in the previous 12 months;
- (6) Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and
- (7) A statement indicating whether the current version of the CAFO's NMP was developed or approved by a certified nutrient management planner; and
- (8) The actual crop(s) planted and actual yield(s) for each field, the actual nitrogen and phosphorus content of the manure, litter, and process wastewater, the results of calculations conducted in accordance with 40 CFR 122.42 (e)(5)(i)(B) and (e)(5)(ii)(D), and the amount of manure, litter, and process wastewater applied to each field during the previous 12 months; and, for any CAFO that implements a nutrient management plan that addresses rates of application in accordance with 40 CFR 122.42 (e)(5)(ii), the results of any soil testing for nitrogen and phosphorus taken during the preceding 12 months, the data used in calculations conducted in accordance with 40 CFR 122.42 (e)(5)(ii)(D), and the amount of any supplemental fertilizer applied during the previous 12 months.

Note: Except as provided under Condition L-4 in ACT4, a discharge of a process wastewater is considered a violation of this permit. [40 CFR Part 122.42(e)(4), 40 CFR 412, 11 Miss. Admin. Code Pt. 6. Ch. 1.]

ACT6 (CAFO GP) CAFO SUBMITTAL REQUIREMENTS (continued):

S-2 CHANGES TO THE NUTRIENT MANAGEMENT PLAN:

For approval of the changes identified in (1) through (4) below, the coveragee shall submit the most current version of the NMP and identify changes from the previous NMP on the Appendix I of the CAFO Forms Package. If any of the changes identified in (1) through (4) below are being made then Appendix I will be made available for public review and comment in accordance with ACT2 Condition T-4. The coveragee may implement the revised NMP only after written notification is received.

- (1) Addition of new land application areas not previously included in the CAFO's nutrient management plan;
- (2) Any changes to the field-specific maximum annual rates for land application, as set forth in 40 CFR Part 122.42 (e)(5)(i), and to the maximum amounts of nitrogen and phosphorus derived from all sources for each crop, as set forth in 40 CFR Part 122.42 (e)(5)(ii);
- (3) Addition of any crop or other uses not included in the terms of the CAFO's nutrient management plan and corresponding field-specific rates of application expressed in accordance with 40 CFR Part 122.42 (e)(5); and
- (4) Changes to site-specific components of the CAFO's nutrient management plan, where such changes are likely to increase the risk of nitrogen and phosphorus transport to waters of the U.S. [40 CFR Part 122.42(e)(6)]

ACT7 (CAFO GP) NUTRIENT MANAGEMENT PLAN CONTENT AND BMPS:

T-1 NUTRIENT MANAGEMENT PLAN CONTENT:

Each CAFO must develop, implement, maintain on site or locally available for a period of five years from the development date, and upon request make available to the Permit Board an approved NMP that at a minimum includes best management practices and procedures necessary to meet the requirements of this paragraph and applicable effluent limitations and standards, including those specified in 40 CFR part 412. The nutrient management plan must, to the extent applicable:

- (1) Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;
- (2) Ensure proper management of mortalities (*i.e.* , dead animals) to ensure that they are not disposed of in a liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities;
- (3) Ensure that clean water is diverted, as appropriate, from the production area;
- (4) Prevent direct contact of confined animals with waters of the United States;
- (5) Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or storm water storage or treatment system unless specifically designed to treat such chemicals and other contaminants;
- (6) Identify appropriate site-specific conservation practices to be implemented, including as appropriate buffers or equivalent practices, to control runoff of pollutants to waters of the United States;
- (7) Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;
- (8) Establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater; and
- (9) Identify specific records that will be maintained to document the implementation and management of the minimum elements described in paragraphs (1) through (8) above.

The NMP expires five years from the date it is created. Appendix I of the CAFO Forms Package is to be used as a cover letter for the updated NMP that is required to be submitted to the Permit Board prior to the NMP expiration date. The approved NMP and any approved modification thereto become an enforceable part of the permit. Approved NMPs may be viewed at the MDEQ offices. The most recent version of the NMP must be maintained on site or locally available for a period of five years from the date they are created and shall be made available to the Permit Board upon request. [11 Miss. Admin. Code Pt. 6, R. 1.1.4.A(4)., 40 CFR Part 122.42(e)(1), 40 CFR Part 122.42 (e)(2)(i)(A), 40 CFR Part 122.42 (e)(2)(ii)].

ACT7 (CAFO GP) NUTRIENT MANAGEMENT PLAN CONTENT AND BMPS (continued):

T-2 NUTRIENT MANAGEMENT PLAN CONTENT REGARDING LAND APPLICATION:

Each CAFO that land applies manure, litter, or process wastewater must incorporate into the nutrient management plan the requirements found in ACT4 Condition L-3, ACT5 Conditions R-6 and R-7, and ACT7 Condition T-3, based on a field-specific assessment of the potential for nitrogen and phosphorus transport from the field and that addresses the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters. [40 CFR Part 412.4(c), 40 CFR Part 412.4(c)(1), 40 CFR Part 412.31(b)(1), 40 CFR 412.43(b)]

T-3 BEST MANAGEMENT PRACTICES: DETERMINATION OF APPLICATION RATES FOR LAND APPLICATION:

Application rates for manure, litter, and other process wastewater applied to land under the ownership or operational control of the CAFO must minimize phosphorus and nitrogen transport from the field to surface waters in compliance with the technical standards for nutrient management established by the Director. Such technical standards for nutrient management shall:

(1) Include a field-specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters, and address the form, source, amount, timing, and method of application of nutrients on each field to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to surface waters; and

(2) Include appropriate flexibilities for any CAFO to implement nutrient management practices to comply with the technical standards, including consideration of multi-year phosphorus application on fields that do not have a high potential for phosphorus runoff to surface water, phased implementation of phosphorus-based nutrient management, and other components, as determined appropriate by the Director. [40 CFR Part 412.4(c)(2), 40 CFR Part 412.31(b)(1), 40 CFR 412.43(b)]

ACT7 (CAFO GP) NUTRIENT MANAGEMENT PLAN CONTENT AND BMPS (continued):

T-4 BEST MANAGEMENT PRACTICES: ADDITIONAL REQUIREMENTS:

- (1) Prior to October 1 of each year the lagoon(s) shall be pumped down to provide for winter storage of rainfall and waste. A minimum of four (4) feet of effluent shall be maintained in the lagoon(s). Pump-out shall be performed only when the moisture condition of the soil is below field capacity and effluent shall be applied at rates that prevent runoff. Application shall not be made prior to prediction of heavy rainfall or immediately after large rains.
- (2) Waste application shall occur only between 30 minutes after sunrise and 30 minutes before sunset unless authorized by MDEQ.
- (3) Waste application on weekends should be minimized. Facility personnel must remain on site during this application.
- (4) Lagoon influent pipes shall be designed, constructed, and maintained such that discharges into the lagoon occur below water and a free fall of wastes does not occur.
- (5) Irrigation practices shall be managed to reduce or minimize ponding or puddling of wastewater on the site, prevent contamination of ground or surface water, and prevent the occurrence of nuisance conditions such as odors and flies.
- (6) Adequate equipment and/or land application area shall be available for removal of such waste and wastewater as required to maintain the retention capacity of the facility for compliance with this permit.
- (7) Operators shall consider wind direction and other relevant conditions before spray application occurs.
- (8) Open lots and associated wastes shall be isolated from outside surface drainage by ditches, dikes, berms, terraces, or other such structures designed to carry peak flows expected from the applicable statistical rainfall event.
- (9) No Waters of the State shall come into direct contact with the animals confined on the Concentrated Animal Feeding Operation. Fences may be used to restrict such access.
- (10) The operator shall prevent the discharge of pesticide contaminated waters into waters of the State. All wastes from dipping vats, pest and parasite control units, and other facilities utilized for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner such as to prevent any significant pollutants from entering the waters of the State.
- (11) Appropriate measures necessary to prevent spills and to clean up spills of any toxic pollutant shall be taken. Where potential spills can occur, materials handling procedures and storage shall be specified. Procedures for cleaning up spills shall be identified and the necessary equipment to implement a cleanup shall be available to personnel.

ACT7 (CAFO GP) NUTRIENT MANAGEMENT PLAN CONTENT AND BMPS (continued):

T-4 BEST MANAGEMENT PRACTICES: ADDITIONAL REQUIREMENTS (continued):

(12) Facilities shall not expand operations, either in size or numbers of animals, prior to amending or enlarging the waste handling procedures and structures to accommodate any additional wastes that will be generated by the expanded operations. The facility shall not be expanded without Permit Board approval.

(13) Solids, sludges, manure, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent significant pollutants from being discharged into waters of the State.

(14) Wastewater retention facilities shall be equipped with either irrigation or evaporation systems capable of dewatering the retention facilities, or the coverage shall provide for a regular schedule of wastewater removal by a contract hauler.

(15) It is the responsibility of the applicant/permittee to obtain all other approvals, permits, clearances, easements and/or agreements, for the construction and operation of the facility, which may be required.

(16) There shall be no contamination of drinking water wells due to waste handling at the permitted facility. Facility wastewater retention facilities, holding pens or waste/wastewater disposal sites shall not be located closer to public or private water wells than the distances specified by State regulations or health codes or State issued permits for that facility.

(17) Waste handling, treatment, and management shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or contribute to the taking of endangered or threatened species of plant, fish, or wildlife. [11 Miss. Admin. Code Pt. 2, R. 2.3.A., 11 Miss. Admin. Code Pt. 6, R. 1.1.1.C(g), 11 Miss. Admin. Code Pt. 6, R. 1.1.4.A(4).]

ACT8 (CAFO GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS:

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 and required to be submitted 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);
- (2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to either effluent limitations in the permit or notification requirements under 40 CFR 122.42(a)(1); or
- (3) The alteration or addition results in a significant change in the 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. [11 Miss. Admin. Code Pt. 6, R. 1.1.4.A(15)(a).]

ACT8 (CAFO GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS (continued):

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. 1.1.4.A(29)(g)., 11 Miss. Admin. Code Pt. 6, R. 1.1.2.E(2).]

S-4 NONCOMPLIANCE REPORTING:

(1) Anticipated Noncompliance. The coveragee 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. 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.

(2) Unanticipated Noncompliance. The coveragee shall notify the MDEQ orally of any unanticipated bypass or noncompliance within 24 hours from the time the coveragee 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 bypass or noncompliance and its cause; the period of bypass or noncompliance, including exact dates and times, and if the bypass or 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 bypass or 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. [40 CFR PART 122.41(m)(2), 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).]

ACT8 (CAFO GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS (continued):

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. Appendix M of the CAFO Forms Package must be used to request transfer or ownership changes. [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.

Appendix J of the CAFO Forms Package is to be used when requesting termination of all or part of coverage under the CAFO General Permit. 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 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).]

T-2 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).]

ACT8 (CAFO GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS (continued):

T-3 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)., 11 Miss. Admin. Code Pt. 6, R. 1.2.6.G(4).]

T-4 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 include 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).]

ACT8 (CAFO GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS (continued):

T-5 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 CAFO NOI form. [40 CFR 122.41(a)]

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).]

T-7 PROHIBITION OF BYPASS:

Bypass is prohibited, and the Commission may take enforcement action against a coveragee for bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (2) 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
- (3) The coveragee submitted notices as required 40 CFR Part 122.41(m)(3).

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

ACT8 (CAFO GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS (continued):

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. 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).

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. 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).]

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 BIOSECURITY:

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

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).]

ACT8 (CAFO GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS (continued):

T-12 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-13 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. 2, R. 2.4.D]

T-14 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-15 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).]

ACT8 (CAFO GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS (continued):

T-16 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. 1.1.2.C., 11 Miss. Admin. Code Pt. 6, R. 1.1.2.E.]

T-17 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.]

ACT8 (CAFO GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS (continued):

T-18 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 R. 1.1.4.A(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).]

T-19 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-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. 1.11., 11 Miss. Admin. Code Pt. 2, R. 2.17.]

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.F(1).]

ACT8 (CAFO GP) STANDARD REQUIREMENTS APPLICABLE TO ALL WATER PERMITS (continued):

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 MCEQ-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 Title 11, Part 1, Chapter 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 Title 11, Part 1, Chapter 2. [Miss. Code Ann. 49-17-39, 11 Miss. Admin. Code Pt. 6, R. 1.1.3.F.]

ACT9 (CAFO GP) DEFINITIONS:

- T-1 The coveragee shall refer to 11 Miss. Admin. Code Pt. 6, Ch. 1., 11 Miss. Admin. Code Pt. 2, Ch. 1., 11 Miss. Admin. Code Pt. 2, Ch. 2., 40 CFR 122, and 40 CFR 412 for definitions of any permit term not specified in this permit. [11 Miss. Admin. Code Pt. 6, Ch. 1., 11 Miss. Admin. Code Pt. 2, Ch. 1., 11 Miss. Admin. Code Pt. 2, Ch. 2., 40 CFR 122, and 40 CFR 412]
- T-2 ANIMAL FEEDING OPERATION (AFO) means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
- (1) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
- (2) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. [40 CFR Part 122.23(b)(1)]
- T-3 BYPASS means the intentional diversion of waste streams from any portion of a treatment facility. [40 CFR PART 122.41(m)(1)(i)]
- T-4 CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) means an AFO that is defined as a Large CAFO or as a Medium CAFO by the terms of this paragraph, or that is designated as a CAFO in accordance with 40 CFR Part 122.23(c). Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes. [40 CFR Part 122.23(b)(2)]
- T-5 CONTIGUOUS (PROPERTY) LANDOWNER means a landowner /property adjacent to (touching) another person's property. Land divided by public access roads is considered contiguous. [11 Miss. Admin. Code Pt. 6, R. 1.1.4.A(4).]
- T-6 LAND APPLICATION AREA means land under the control of an AFO owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied. [40 CFR Part 412.2(e)]

ACT9 (CAFO GP) DEFINITIONS (continued):

T-7 LARGE CONCENTRATED ANIMAL FEEDING OPERATION (Large CAFO)

An AFO is defined as a Large CAFO if it stables or confines as many as or more than the numbers of animals specified in any of the following categories:

- (1) 700 mature dairy cows, whether milked or dry;
- (2) 1,000 veal calves;
- (3) 1,000 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
- (4) 2,500 swine each weighing 55 pounds or more;
- (5) 10,000 swine each weighing less than 55 pounds;
- (6) 500 horses;
- (7) 10,000 sheep or lambs;
- (8) 55,000 turkeys;
- (9) 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
- (10) 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
- (11) 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
- (12) 30,000 ducks (if the AFO uses other than a liquid manure handling system); or
- (13) 5,000 ducks (if the AFO uses a liquid manure handling system). [40 CFR Part 122.23(b)(4)]

T-8 LITTER is defined to include chicken litter, bedding, compost, and raw materials or other materials commingled with litter or set aside for disposal. [11 Miss. Admin. Code Pt. 6, R. 1.1.4.A(4).]

T-9 MANURE is defined to include manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal. [40 CFR Part 122.23(b)(5)]

ACT9 (CAFO GP) DEFINITIONS (continued):

- T-10 MEDIUM CONCENTRATED ANIMAL FEEDING OPERATION ('Medium CAFO) includes any AFO with the type and number of animals that fall within any of the ranges listed below and which has been defined or designated as a CAFO. An AFO is defined as a Medium CAFO if:
- (1) The type and number of animals that it stables or confines falls within any of the following ranges:
 - (i) 200 to 699 mature dairy cows, whether milked or dry;
 - (ii) 300 to 999 veal calves;
 - (iii) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs;
 - (iv) 750 to 2,499 swine each weighing 55 pounds or more;
 - (v) 3,000 to 9,999 swine each weighing less than 55 pounds;
 - (vi) 150 to 499 horses;
 - (vii) 3,000 to 9,999 sheep or lambs;
 - (viii) 16,500 to 54,999 turkeys;
 - (ix) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system;
 - (x) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;
 - (xi) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system;
 - (xii) 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or
 - (xiii) 1,500 to 4,999 ducks (if the AFO uses a liquid manure handling system); and
 - (2) Either one of the following conditions are met:
 - (i) Pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or
 - (ii) Pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation. [40 CFR Part 122.23(b)(6)]
- T-11 MULTI-YEAR PHOSPHORUS APPLICATION means phosphorus applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications, no additional manure, litter, or process wastewater is applied to the same land in subsequent years until the applied phosphorus has been removed from the field via harvest and crop removal. [40 CFR Part 412.4(b)(3)]
- T-12 PROCESS WASTEWATER means water directly or indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding. [40 CFR Part 122.23(b)(7)]

ACT9 (CAFO GP) DEFINITIONS (continued):

- T-13 **PRODUCTION AREA** means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities. [40 CFR Part 122.23(b)(8)]
- T-14 **SETBACK** means a specified distance from surface waters or potential conduits to surface waters where manure, litter, and process wastewater may not be land applied. Examples of conduits to surface waters include but are not limited to: Open tile line intake structures, sinkholes, and agricultural well heads. [40 CFR Part 412.4(b)(1)]
- T-15 **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. [40 CFR PART 122.41(m)(1)(ii)]
- T-16 **SUBMITTED** means the document is postmarked on or before the applicable deadline, except as otherwise specified. [11 Miss. Admin. Code Pt. 6, R. 1.1.A(67).]
- T-17 **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. [11 Miss. Admin. Code Pt. 6, R. 1.1.4.A(27)(a).]
- T-18 **VEGETATED BUFFER** means a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters. [40 CFR Part 412.4(b)(2)]
- T-19 **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.). [11 Miss. Admin. Code Pt. 6, R. 1.1.A(85).]