



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

## **Nutrient Management Plans Statutes & Regulations**

### **Mississippi**

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## Nutrient Management Plans

### STATE OF MISSISSIPPI

**1) Miss. Code Ann. §§ 49-17-29(2), (3), 49-17-34; CMSR 11-006-01.1.4(A)(4), (12)(C), (C), (H), (N)**

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

**1) Miss. Code Ann. §§ 49-17-29(2), (3), 49-17-34; CMSR 11-006-01.1.4(A)(4), (12)(C), (C), (H), (N)**

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

[ . . . ]

(2)

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

(b) It is unlawful for any person to carry on any of the following activities, unless that person holds a current permit for that activity from the Permit Board as may be required for the disposal of all wastes which are or may be discharged into the waters of the state, or unless that person is exempted from holding a permit by a regulation promulgated by the commission: (i) the construction, installation, modification or operation of any disposal system or part thereof or any extension or addition thereto, including, but not limited to, systems serving agricultural operations; (ii) the increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit; (iii) the construction, installation or operation of any industrial, commercial or other establishment, including irrigation projects or any extension or modification thereof or addition thereto, the operation of which would cause an increase in the discharge of wastes

into the waters of the state or would otherwise alter the physical, chemical or biological properties of any waters of the state in any manner not already lawfully authorized; (iv) the construction or use of any new outlet for the discharge of any wastes into the waters of the state. However, no new or existing applications relating to swine concentrated animal feeding operations within a county shall be exempted from regulations and ordinances which have been duly passed by the county's board of supervisors and which are in force on June 1, 1998.

(3)

(a) Except as otherwise provided in this section, the Permit Board created by Section 49-17-28 shall be the exclusive administrative body to make decisions on permit issuance, reissuance, denial, modification or revocation of air pollution control and water pollution control permits and permits required under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17), and all other permits within the jurisdiction of the Permit Board. After consideration of alternative waste treatment technologies available to control air and water pollution and odor, including appropriate siting criteria, the commission may promulgate regulations establishing conditions, limitations and exemptions under which the Permit Board shall make these decisions. Regulations promulgated by the commission which establish exemptions as authorized under this section shall apply to any applicable facility in operation on the effective date of that regulation and to any applicable facility constructed or operated after the effective date of that regulation. The Permit Board may issue multiple permits for the same facility or operation simultaneously or in the sequence that it deems appropriate consistent with the commission's regulations. Except as otherwise provided in this paragraph, the Permit Board, under any conditions that the board may prescribe, may authorize the Executive Director of the Department of Environmental Quality to make decisions on permit issuance, reissuance, denial, modification or revocation. The executive director shall not be authorized to make decisions on permit issuance, reissuance, denial, modification or revocation for a commercial hazardous waste management facility or a solid waste management permit for a municipal solid waste landfill or incinerator. A decision by the executive director shall be a decision of the Permit Board and shall be subject to formal hearing and appeal as provided in this section. The executive director shall report all permit decisions to the Permit Board at its next regularly scheduled meeting and those decisions shall be recorded in the minutes of the Permit Board. The decisions of the Permit Board shall be recorded in minutes of the Permit Board and shall be kept separate and apart from the minutes of the commission. The decision of the Permit Board or the executive director to issue, reissue, deny, modify or revoke permits shall not be construed to be an order or other action of the commission.

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

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

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

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

(f) The Permit Board shall not issue any permit for a new swine concentrated animal feeding operation or the expansion of an existing swine concentrated animal feeding operation before January 1, 2000, unless the department received the application for that operation's new or modified permit before February 28, 1998, or except as provided in this paragraph (f). In issuing or modifying any permit for which the department received an application before February 28, 1998, the Permit Board shall apply those siting criteria adopted or used by the commission before February 28, 1998, unless federal law or regulations require more stringent criteria. The moratorium established in this paragraph shall not apply to the issuance of any permit for a new swine concentrated animal feeding

operation or the expansion of an existing swine concentrated animal feeding operation that uses an animal waste management system which the applicant demonstrates to the Permit Board is innovative in significantly reducing the effects of the operation on the public health, welfare or the environment and which is approved by the Permit Board. The Permit Board shall not issue or modify more than five (5) permits under this innovative animal waste management system technology exemption to the moratorium.

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

[ . . . ]

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

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

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

(3) If there are no federal statutes or federal regulations, standards, criteria or guidance that have been duly promulgated pursuant to the federal Administrative Procedures Act addressing matters relating to air quality or water quality, or air emission or water discharge standards, the commission may promulgate regulations to address these matters

in accordance with the Mississippi Administrative Procedures Act, when the commission determines that such regulations are necessary to protect human health, welfare or the environment.

(4) For any initial or modified air or water permit issued from and after January 1, 1994, except with the written consent of the permit applicant, no provision or condition imposing any duty, responsibility or liability on the permittee shall be included in such permit, the direct basis for which has not been first promulgated as a regulation by the commission in accordance with the requirements of the Mississippi Administrative Procedures Act. "Direct basis" shall mean that such permit provisions or conditions shall not exceed the scope, coverage and effect of the regulation upon which it is based including, but not limited to, frequency or time limit of action, technology, identity and scope of pollutants regulated, numerical or narrative standards or limitations.

#### **Rule 1.1.4. Terms and Conditions Applicable to Permits.**

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

[ . . . ]

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

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

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

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

(d) Any other more stringent limitation deemed necessary by the Permit Board to meet applicable water quality standards, treatment standards or

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

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

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

[ . . . ]

#### (12) Spill Prevention and Best Management Plans

[ . . . ]

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

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

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

(1) All animal feedlots, Grade A dairies, poultry operations with 9,000 or more birds, swine operations with 10 or more sows or 50 or more swine, which have been constructed, enlarged or significantly altered after August 15, 1979, or any other animal confinement causing pollution of waters of the State or Grade A dairies needing to reapply to the State Health Department for reissuance of a revoked Health Department permit shall obtain a permit pursuant to these regulations.

(2) Facilities built before August 15, 1979, are not automatically required to obtain a permit. However, any facility that causes pollution of waters of the state, or places or causes to be placed any wastes in a location where they are likely to cause pollution of any waters of the state or operates a wastewater treatment or disposal system may be required to obtain a permit or coverage under a general permit.

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

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

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

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

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

[ . . . ]

#### H. NPDES Animal Waste Permits Only

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

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

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



(2) Proper Operation and Maintenance Requirements.

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

(3) Best Management Practices.

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

(4) Pollution Prevention Plans.

A pollution prevention plan shall be developed for each facility covered by the permit. Pollution prevention plans shall be prepared in accordance with good engineering practices and should include measures necessary to limit pollutants in runoff. The plan shall describe and ensure the implementation of practices which are to be used to assure compliance with the limitations and conditions of the permit. The plan shall identify a specific individual(s) at the facility who is responsible for developing the implementation, maintenance, and revision of the pollution prevention plan. The activities and responsibilities of the pollution prevention personnel should address all aspects of the facility's pollution prevention plan.

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

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

(5) Preventive Maintenance.

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

[ . . . ]

N. State Permits Issued to Animal Feeding Operations Only

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

(1) Wet

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

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

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

(d) The permittee must have completed construction within 12 months of date of issuance of this permit. Failure to submit

certification of completion of construction, as designed, may result in revocation of permit.

(2) Dry

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

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

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