

**STATE ENVIRONMENTAL LAWS
AFFECTING
MISSISSIPPI AGRICULTURE**

*(See NASDA's website for
Federal Environmental Laws Affecting U.S. Agriculture)*

A Project of the

**National Association of State Departments
of Agriculture Research Foundation**

through the

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Research and Information**

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Table of Contents

This document has two components: the state guide and federal guide. To complete this guide, please download the federal guide also found on NASDA's website.

The Project Participants	MS-iii
Disclaimer	MS-iv
Quick Reference Guide	MS-v
I. Water Quality	MS-1
A. Mississippi Water Quality Laws and Regulations	MS-1
1. Mississippi Air and Water Pollution Control Law	MS-2
2. Mississippi Commission on Environmental Quality	MS-3
3. Mississippi's Department of Environmental Quality	MS-4
4. Mississippi Environmental Quality Permit Board	MS-6
5. Mississippi NPDES Permits and State Wastewater Treatment Permits	MS-7
a. NPDES Permits	MS-8
b. State Wastewater Treatment Permits	MS-11
6. Mississippi Coastal Management Program	MS-16
7. Mississippi Shoreline and Beach Preservation Districts	MS-21
8. Mississippi Water Management Districts	MS-24
a. Joint Water Management Districts	MS-24
b. Master Water Management Districts	MS-25
II. Groundwater	MS-27
A. Mississippi Groundwater Laws and Regulations	MS-27
B. Mississippi Environmental Protection Fee	MS-32
C. Mississippi Underground Storage Tanks	MS-33
III. Air Quality	MS-35
A. Mississippi Air Quality Laws and Regulations	MS-35
IV. Solid Waste and Hazardous Waste	MS-39
A. Mississippi Solid Waste and Hazardous Waste Laws and Regulations ...	MS-40
B. Mississippi Multimedia Pollution Prevention Act	MS-41

V.	Pesticides and Chemigation	MS-42
A.	Mississippi Pesticide and Chemigation Laws and Regulations	MS-42
B.	Mississippi Pesticide Applicator Certifications and Licenses	MS-45
C.	Mississippi Pesticide Dealers	MS-47
D.	Mississippi Pesticide Consulting Licenses	MS-48
VI.	Protection of Wildlife	MS-48
A.	Mississippi Wildlife Protection Laws and Regulations	MS-48
VII.	Enforcement of State Environmental Laws	MS-49
VIII.	Other Mississippi Statutes Affecting Agriculture	MS-50
A.	Mississippi Farmland Preservation	MS-50
1.	Mississippi Zoning	MS-50
2.	Mississippi Conservation Easements	MS-50
3.	Special Tax Advantages for Environmentally Conscious Practices in Mississippi	MS-52
B.	Mississippi Nuisance and Right to Farm Laws	MS-52
1.	Mississippi Right to Farm	MS-52
2.	Mississippi Farm Nuisance	MS-53
C.	Mississippi Land Application and Management of Livestock Waste	MS-53
D.	Mississippi Dead Animal Disposal	MS-54
E.	Mississippi Noxious Weeds	MS-54
	Appendix A - Agencies	MS-56

The Project Participants

National Association of State Departments of Agriculture Research Foundation

The National Association of State Departments of Agriculture (NASDA) is a nonprofit, nonpartisan association of public officials comprised of the Commissioners, Secretaries, and Directors of the fifty State Departments of Agriculture in the fifty states and the territories of Puerto Rico, Guam, American Samoa, and the Virgin Islands. NASDA's mission is to represent the State Departments of Agriculture in the development, implementation, and communication of sound public policy and programs which support and promote the American agricultural industry while protecting consumers and the environment. The NASDA Research Foundation is a 501(c)(3) nonprofit, tax-exempt corporation for educational and scientific purposes.

National Center for Agricultural Law Research and Information

The National Center for Agricultural Law Research and Information (NCALRI) was created in 1987 under Public Law 100-202, 101 Stat. 1329-30 to address the complex legal issues that affect American agriculture. The NCALRI focuses its efforts on research, writing, publishing, development of library services, and the dissemination of information to the public. The NCALRI is located at the University of Arkansas School of Law in Fayetteville, Arkansas.

Natural Resources Conservation Service

The Natural Resources Conservation Service (NRCS), formerly known as the Soil Conservation Service (SCS), is a federal agency within the U.S. Department of Agriculture (USDA). NRCS conservationists work with private landowners and operators to help them protect their natural resources.

U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) is a federal agency with primary responsibility for implementation of most federal laws designed to protect, enhance, and conserve the nation's natural resources.

Disclaimer

This guide is designed for use by farmers, ranchers, landowners, and their consultants in understanding the effect environmental laws have on agricultural operations. It is not a substitute for individual legal advice. Producers should always confer with their own attorneys, consultants, or advisors, as well as federal, state, and local authorities responsible for the applicable environmental laws.

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Although every effort has been made to ensure the accuracy of the information contained in this book, environmental statutes, regulations, and ordinances are constantly changing. In addition, the overwhelming complexity and extent of environmental law make it impossible for a single book to describe in complete detail and depth all of the environmental laws and regulations impacting agricultural operations. The following material is simply a basic primer on environmental law for agricultural producers. For these reasons, the utilization of these materials by any person constitutes an agreement to hold harmless the authors, the National Center for Agricultural Law Research and Information, the University of Arkansas, the United States Department of Agriculture, the National Association of State Departments of Agriculture Research Foundation, the Natural Resources Conservation Service, and the United States Environmental Protection Agency for any liability, claims, damages, or expenses that may be incurred by any person or organization as a result of reference to, or reliance on, the information contained in this book.

The background research and final documents were completed in October 2001. Updates of the information contained in the guide will occur on an as needed basis and be available on the internet.

Anyone with comments concerning the guide should contact the NASDA Research Foundation at 1156 15th Street, N.W., Suite 1020, Washington, D.C. 20005, or phone (202) 296-9680.

Quick Reference Guide

Producer Note: The following chart is intended as a quick reference guide to permits which may be necessary for a particular operation. If a permit is necessary, refer to the page numbers listed referencing this document for further information and contact the agencies listed in the final column for information on applications and procedures for securing a permit for an operation. A list of agencies and contact information is also provided in Appendix A.

Regulatory Area	Type of Activity	Permit Required	Agency
Water Quality <i>pp. 1-27</i>	Livestock and aquaculture operations, depending on size	National Pollution Discharge Elimination System (NPDES) and state general permit.	Environmental Protection Agency (EPA) Regional Office and Mississippi Commission on Environmental Quality (CEQ)
	Wetlands dredge and fill activity or dam, dike, or bridge building activities	Clean Water Act Section 404 permit	U.S. Army Corps of Engineers with EPA and Mississippi CEQ approval
	Water usage	Permit required for withdrawal of more than 100,000 gallons per day	Mississippi CEQ
	Water well construction and use	No permit, but construction standards must be followed	Mississippi Department of Agriculture and Commerce (MDAC)
Groundwater <i>pp. 27-34</i>	Groundwater protection	No permit, but best management practices (BMPs) may be required	Mississippi CEQ
Air Quality <i>pp. 35-39</i>	General agricultural operations including odor, dust, or flies	No permit, but may be subject to nuisance suits	EPA Regional Office or MDAC

Regulatory Area	Type of Activity	Permit Required	Agency
Solid Waste and Hazardous Waste <i>pp. 39-41</i>	Storage, treatment, or disposal of hazardous or solid waste	Permit required for disposal, treatment, or storage activities	EPA Regional Office and Mississippi CEQ
	Public notice of hazardous waste	No permit	Local Emergency Planning Committee and Mississippi Department of Labor
Pesticides and Chemigation <i>pp. 42-47</i>	Application and use of pesticides	No permit, but a license may be required	EPA and MDAC
	Use of pesticides around farmworkers	No permit, but training and notification is required	MDAC
	Record keeping	No permit, but all requirements must be met	MDAC
Wildlife Protection <i>pp. 48-49</i>	Taking of wildlife	Permit required if endangered or threatened species may be affected	U.S. Fish and Wildlife Service

STATE ENVIRONMENTAL LAWS AFFECTING MISSISSIPPI AGRICULTURE

Producer Note: Agricultural producers are faced with many challenges in today's rapidly changing world. Changes in industrialization, computer-based technology, and market dynamics affect producers in a number of ways. Environmental regulation is a complex area with both federal and state government involvement. Staying informed is the producer's most useful instrument for meeting the challenges of today's agriculture. This information on environmental regulation is provided to educate producers of the breadth and scope of environmental laws which may impact daily production activities.

I. WATER QUALITY

Producer Note: In order for agricultural producers to stay in compliance with water quality legislation, they must be aware of water quality standards, NPDES permit requirements, wetland permits, oil spill liability, state and local nonpoint source pollution programs, and whether there are any waters in their area that require special protection. Mississippi takes an active role in ensuring compliance with these requirements.

A. Mississippi Water Quality Laws and Regulations

Caution: Because environmental laws and regulations change frequently, agricultural producers must stay in touch with both state and federal officials in order to remain in compliance and aware of changes in the law.

Most states have enacted clean water legislation. While these statutes usually contain provisions similar to those found in the parallel federal legislation, there may be significant differences. In fact, state statutes may impose requirements that are even more restrictive than the federal law. In all cases, however, the federal Clean Water Act¹ (CWA) requirements must be followed along with the state enacted statutes and state agency regulations. Agricultural producers should be aware that, depending on their location or proximity near sensitive watershed areas, they may be subject to more stringent regulations than in other areas.

¹ 33 U.S.C. §§ 1251 *et seq.* (1994) (also known as the federal Water Pollution Control Act).

Producer Note: Often the specifics of environmental laws are found in federal or state agency regulations. Because regulations may be amended frequently, an agricultural producer should stay in touch with state and federal agencies administering specific programs in order to keep up with all changes which may occur. However, regarding environmental regulation, agricultural producers should take note that, in some areas, local laws such as county and city ordinances may be imposed which add a third layer of regulation to compliance concerns.

1. Mississippi Air and Water Pollution Control Law

Mississippi's water quality legislation is integrated with the state's air quality legislation and is entitled the Mississippi Air and Water Pollution Control Law (AWPCL).² In accordance with the directives of the federal CWA, the Mississippi AWPCL was established to conserve, protect, maintain, and improve the quality of the state's waters. Coupled with Mississippi's public policy of antidegradation which is to prevent, abate, and control new or existing water pollution,³ AWPCL's prohibition of untreated waste discharge⁴ protects the established beneficial uses of the waters of the state.

The AWPCL sets forth the guidelines for the determination of water quality standards and correspondent criteria⁵ for waters of the state⁶ and the penalties for prohibited actions pertaining to both air and water standards in the state.⁷ The AWPCL establishes that the standards are determined by the Commission on Environmental Quality (CEQ).⁸ The CEQ, thus, determines all water quality standards based on the types of beneficial uses of water, for example:

² MISS. CODE ANN. §§ 49-17-1 *et seq.* (1999 & Supp. 2001).

³ Pollution means contamination or other alteration of the physical, chemical, or biological properties of any waters of the state including change in temperature, taste, color, turbidity, or odor of the waters or such discharge of any liquid, gaseous, solid, radioactive, or other substance or leak into any waters of the state unless it is in compliance with a valid permit; *see* MISS. CODE ANN. § 49-17-5.1(a) (1999 & Supp. 2001).

⁴ Waste discharge must be treated or must receive other corrective action before it enters waters of the state; *see* MISS. CODE ANN. § 49-17-3 (1999)

⁵ MISS. CODE ANN. § 49-17-17(h) and -19 (1999).

⁶ Waters of the state means all waters within the jurisdiction of the state including all streams, lakes, ponds, impounding, reservoirs, marshes, water courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of waters whether subsurface, underground, natural, or artificial except lakes, ponds, or other surface waters which are landlocked and privately owned and not regulated under the CWA; *see* MISS. CODE ANN. § 49-17-5.1(f) (1999 & Supp. 2001).

⁷ MISS. CODE ANN. § 49-17-29 (1999 & Supp. 2001).

⁸ MISS. CODE ANN. § 49-17-17; referencing §§ 49-17-1 *et seq.* (1999) and §§ 17-17-1 *et seq.* (1999 & Supp. 2001); *see also* §§ 49-2-5 and -9 (1999).

- ! Domestic use;
- ! Agricultural use;
- ! Industrial use;
- ! Recreational use;
- ! Propagation of wildlife, fish, and aquatic life; and
- ! Other legitimate beneficial uses.⁹

2. *Mississippi Commission on Environmental Quality*

The CEQ is a seven (7) person commission with members appointed by the governor. Each member must have extensive knowledge or practical experience in at least one matter under CEQ's jurisdiction. The membership of the CEQ consists of the Executive Director of the Department of Environmental Quality (DEQ) or designee, one representative from each of the congressional districts, and two members at large. The CEQ acts in conjunction with the DEQ,¹⁰ however, the CEQ has all incidental powers necessary to carry out authorized CEQ duties and separate powers and duties including the power to:

- ! Administer and enforce DEQ rules and regulations;
- ! Develop comprehensive programs to prevent, control, and abate air and water pollution;
- ! Advise, consult, cooperate, or contract with other state agencies, institutions, groups, political subdivisions, and industries;
- ! Administer funds for air and water pollution abatement;
- ! Encourage research, studies, and investigations regarding air and water quality and pollution control;
- ! Collect and disseminate information regarding air and water quality and pollution control;

⁹ MISS. CODE ANN. § 49-17-3 (1999).

¹⁰ Primary duties include enforcing of rules and regulations, setting air and water quality standards, issuing policies and orders to prevent, control, and abate existing or potential air and water pollution; *see* MISS. CODE ANN. §§ 49-2-5 and -9 (1999).

- ! Promulgate and adopt air and water quality standards;
- ! Issue, modify, or revoke orders:
 - Prohibiting, controlling, or abating discharges of contaminants and wastes into air and waters of the state;
 - Requiring construction of new disposal systems or air cleaning devices; and
 - Setting standards of air and water quality;
- ! Issue subpoenas and notices of hearings, hold hearings, administer oaths, and take testimony as would a court;
- ! Require maintenance and operation of disposal systems; and
- ! Delegate duties and powers to other state agency members as needed.

3. *Mississippi's Department of Environmental Quality*

The DEQ has the multiple responsibilities for conserving, managing, developing, and protecting the natural resources of Mississippi. Organizationally, the DEQ¹¹ has six (6) offices and departments including the:

- ! Office of Administrative Services which provides:
 - Accounting services such as budgeting, payroll, purchasing, grants administration, data processing, printing services, public relations, and human resource services; and
 - Management of vehicles, buildings, and property.
- ! Office of Geology which is responsible for:
 - Research into surface and subsurface geology, paleontology, and mineral resources;
 - Reclamation of surface mined land; and
 - Mineral leasing on state-owned lands.

¹¹ MISS. CODE ANN. §§ 49-2-1 to -71 (1999 & Supp. 2001).

- ! Office of Land and Water Resources (OLWR) which is charged with:
 - Studying and managing:
 - i. Water resources in the state;
 - ii. Ways to conserve and augment waters;
 - iii. Uses for protection and procreation of fish and wildlife; as well as
 - iv. Other uses and related subjects including drainage, reclamation, flood-plain or flood-hazard area zoning, and selection of reservoir sites; plus
 - Recommending permit issuance on certain new and existing groundwater wells;
 - Recommending permit issuance on surface water withdrawal and diversion points;
 - Requiring that dams be constructed and maintained in accordance with certain minimum state standards;
 - Testing and licensing of water well drillers who operate in the state; and
 - Developing and maintaining a statewide data base on water resources information used to formulate the comprehensive "state water management plan."

- ! Office of Legal Services which provides services that encompass all aspects of DEQ litigation such as discovery, hearings, trials, and appeals as well as community legal education activities;

- ! Office of Pollution Control which governs laws that conserve air and water and that protect, maintain, and improve the air and water quality by providing technical assistance, permitting, monitoring, and enforcement; and

- ! Environmental Resource Center which provides environmental information and assistance for individuals, groups, and organizations as well as small businesses addressing pollution prevention and solid waste recycling through various resources such as public records and statistics, teacher workshops, newsletters, and educational outreach programs.

4. *Mississippi Environmental Quality Permit Board*

The Mississippi Environmental Quality Permit Board (EQPB) is a nine (9) member board made up of: (1) the Chief of the Bureau of Environmental Health of State Board of Health or designee, (2) the Executive Director of the Department of Wildlife, Fish, and Parks or designee, (3) Head of the OLWR within DEQ or designee, (4) the Supervisor of the State Oil and Gas Board or designee, (5) the Director of the Department of Marine Resources (DMR) or designee, (6) the Head of the Office of Geology and Energy Resources within DEQ or designee, (7) the Commissioner of the Department of Agriculture and Commerce (MDAC) or designee, (8) a retired professional engineer with knowledge in engineering of water wells and supply systems, and (9) a retired water well contractor.¹² The EQPB has the authority to:

- ! Make all water quality certification decisions relating to Section 401 of the federal CWA,¹³ and
- ! Issue, reissue, modify, revoke, or deny:
 - Permits to control or prevent discharge of contaminants and wastes into air and waters of the state;
 - Permits required under the Solid Waste Disposal Law of 1974;¹⁴
 - Permits under water management districts;¹⁵
 - Water quality certifications relating to Section 401 of the CWA; and
 - All other permits involving the natural resources of the state.

¹² The eighth and ninth members are appointed by the governor and vote only on OLWR matters; the EQPB is created by MISS. CODE ANN. § 49-17-28 (1999).

¹³ Involving those matters which were assumed by the state.

¹⁴ MISS. CODE ANN. §§ 17-17-1 to -507 (1995 & Supp. 2001).

¹⁵ MISS. CODE ANN. §§ 51-3-1 to -55 (1999 & Supp. 2001).

Producer Note: The federal CWA authorizes the EPA to delegate the federal NPDES permit program to individual states. Mississippi is one of the states that has assumed responsibility for the administration of the NPDES permit program. States are required to administer the program in accordance with all federal statutes, regulations, and standards. Accordingly, the Mississippi legislature established the Mississippi Air and Water Pollution Control Law (AWPCL).¹⁶ Mississippi's Department of Environmental Quality (DEQ) in conjunction with the Commission on Environmental Quality (CEQ) and the Environmental Quality Permit Board (EQPB) promulgates and administers all water, air, solid waste, and hazardous waste regulations except in coastal, saltwater, and marine areas which are addressed by the Department of Marine Resources (DMR) in conjunction with the Commission on Marine Resources (CMR).

5. *Mississippi NPDES Permits and State Wastewater Treatment Permits*

Producer Note: Mississippi requires all animal feed lots and most animal feeding operations (AFOs) and waste systems to be permitted. Accordingly, the EQPB issues state Wastewater Treatment permits and NPDES permits for these operations.

The CWA requirements affect many aspects of agricultural production. The CWA requires states to reduce water pollution of the navigable waters. The CWA distinguishes and divides water pollution sources into two categories, point sources and non-point sources:

Point source pollution is "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged."¹⁷

Nonpoint source pollution is not defined in the CWA; however, it is generally referred to as all water pollution that does not derive from a point source.

Unlike point source pollution, nonpoint source pollution is difficult to identify and difficult to control. Nonpoint source pollution does not come from one specific conveyance but is discharged over a wide land area from activities such as grazing, crop production, forestry (or silviculture), log storage or rafting, construction, mining, recreation, and runoff from storms. Nonpoint sources generally cannot be monitored at their point of origin, and their source is not readily traceable. Furthermore, it is frequently impossible to distinguish man-induced from naturally occurring nonpoint-source pollution. Nonpoint source pollution is not directly regulated by the federal

¹⁶ MISS. CODE ANN. §§ 49-17-1 to -43 (1999 & Supp. 2001).

¹⁷ 33 U.S.C. § 1362(14) (West 1994).

CWA; however, the CWA does charge coastal states that developed a voluntary coastal management program to further protect coastal resources by developing a nonpoint source pollution program with specific management measures or face reductions of federal financial support for their previous coastal zone management program and the new specific management measures program. Mississippi is one of the states that voluntarily developed a coastal management program and that currently is developing a nonpoint source pollution program with specific management measures.

Under the federal CWA, all point source discharges into waters of the United States are regulated by the Environmental Protection Agency (EPA) through the mandatory permit system known as the National Pollutant Discharge Elimination System (NPDES) permit program.^{18, 19} The CWA, however, allows the EPA to delegate the responsibility of the NPDES permit program to states that prefer to administer the program themselves. Mississippi is one of those states that has assumed the responsibility for the administration of the NPDES permit program regulating point source discharges.²⁰

a. NPDES Permits

Mississippi's NPDES permitting program is consistent with the federal NPDES permitting program and is implemented in a similar manner.²¹ In fact, many sections of the federal NPDES program are incorporated by reference into Mississippi's NPDES program. The overall national performance expectation is that all animal feeding operations (AFOs) will develop and implement a site-specific comprehensive nutrient management plan (CNMP) that uses best management practices (BMPs) for waste management as a method to stay within the effluent limitations in the NPDES permit.²² At the present time, however, the federal law only requires concentrated animal

¹⁸ Non-point source pollution is addressed by required state management plans and water quality assessment reports due to EPA every two years; reports describe the nature and extent of nonpoint pollutants and provide recommendations to control the problem; *see* CWA §§ 208 & 305 (b), (33 U.S.C. §§ 1315(b)(1)(E) and 1288(b)(2)(F)).

¹⁹ NPDES permits contain effluent limitations specifying the amounts of pollutants which may be discharged; other terms, conditions, and operational practices may be specified in the permit; monitoring, record keeping, and reporting requirements are usually included.

²⁰ Mississippi provides for one-stop permitting; *see* MISS. CODE ANN. §§ 25-45-1 to -9 (1999).

²¹ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1-3 (1995).

²² The Natural Resources and Conservation Service (NRCS) publication CONSERVATION PRACTICE STANDARD: NUTRITION MANAGEMENT CODE 590 is a suggested resource that offers technical guidance in developing CNMPs for AFOs. CNMPs detail feed and manure management, personnel, applications, storage, and record keeping, maintenance, discharge occurrences, and other management aspects. A NPDES permit should contain provisions allowing waste pollutants in discharged overflow only when: rainfall events cause an overflow; the facility was designed, constructed,

feeding operations (CAFOs)²³ to obtain a NPDES permit and develop a CNMP. AFOs that are considered to be CAFOs are:

- ! AFOs with greater than one thousand (1000) animal units (AUs);²⁴
- ! AFOs with greater than three hundred (300) AUs that:
 - Discharge animal waste through man-made devices into navigable waters²⁵ or
 - Allow animals to come in contact with waters running through the operation or that significantly impair a waterbody in a nonattainment area.²⁶
- ! AFOs that are deemed CAFOs on a case-by-case basis after DEQ inspection because:
 - They are a significant contributor to pollution or
 - They pose a risk to discharge and pollute.

In Mississippi beneficial incentives may exist for AFOs that meet water quality regulatory criteria, for example:

and operated to contain all generated wastewater plus runoff from a twenty-five year (25-yr.), twenty-four hour (24-hr.) storm event; and the discharged overflow is the result of a such a rainfall event exceeding the proper design capacity when the facility was properly maintained. Retention structures associated with AFOs must contain all process wastewater in addition to the twenty-five year (25-yr.), twenty-four hour (24-hr.) storm event criteria.

²³ CAFO means a lot or facility where animals have been, are, or will be stabled or confined and fed or maintained for 45 days or more in any 12 month period and where no crops, forage, or post-harvest residues are absent in the normal growing season; *see* 40 C.F.R. § 122.23(b)(1) (1994).

²⁴ One AU generally represents one slaughter or feeder beef cow but animal numbers vary with other kinds of animals or species; *see* 40 C.F.R. § 122 app. B. (1994).

²⁵ The term navigable waters is defined in the CWA as waters of the U.S. which is broadly interpreted by the EPA to mean most rivers, streams, lakes, and wetlands. This term does not mean the water has to be accessible by boats.

²⁶ A nonattainment area means the water quality of the waterbody does not meet the water quality standard established for that waterbody's designated beneficial use.

- ! Certain tax incentives may exist for AFOs that develop and implement CNMPs.
- ! Smaller AFOs required to obtain a NPDES permit and develop a site-specific CNMP may exit the NPDES permit program at the end of the permit term if problems are corrected; and
- ! A good faith consideration may be allowed in any subsequent regulatory enforcement and compliance review if AFOs implement their site-specific CNMPs.

A state issued NPDES permit for a discharge activity may either be an individual NPDES permit or a general NPDES permit.²⁷ Any discharge activity not addressed or covered by one of the forty or so nationwide general NPDES permits requires an individual NPDES permit.

The nationwide general NPDES permits are available to address some common but specific activities. Nonetheless, a request for a general permit may be denied if the particular activity causes or will cause significant adverse effects on the water body or the surrounding environment or if a practical alternative activity is available.

Many normal farming, ranching, and logging practices such as plowing, seeding, cultivating, and harvesting are specifically exempted from NPDES permit requirements of the CWA if the activities were already occurring and have been continuous.²⁸ A NPDES permit may still be required, however, if changes in farming activities occur.²⁹

Agricultural activities allowed under nationwide general NPDES permits include, for example, permit #4, fish and wildlife enhancement devices, attraction devices, and harvesting activities; permit #27, wetland and riparian restoration and creation activities; permit #30, moist soil management for wildlife; permit #31, maintenance of existing flood control facilities; permit # 34, cranberry production activities; permit #37, emergency watershed protection and rehabilitation; and permit #40, construction of farm buildings.

Violators of the NPDES permit program are subject to injunctions, civil penalties of twenty-five thousand dollars per day (\$25,000.00/da.) of violation and liability for damages to natural resources.

²⁷ General NPDES permits that address certain but common types of activities are determined at the federal level.

²⁸ 33 C.F.R. § 323.4 (1996).

²⁹ NPDES permits and state Wastewater Treatment permits are issued for five year periods; applications for renewal must be filed at least 180 days prior to the permit expiration date unless DEQ determines otherwise; *see* OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § V(A)(1995).

Other state permits such as a Wastewater Treatment permit³⁰ or an Underground Injection Control (UIC)³¹ permit may be necessary where a NPDES permit may not be applicable.³²

b. State Wastewater Treatment Permits

An AFO may be required to obtain an animal waste operating permit from the EQPB. Under Mississippi regulations, the state Wastewater Treatment permit is required for the following types of operations:³³

- ! All animal feedlots;
- ! Grade A dairies;³⁴
- ! Poultry operations with nine thousand (9,000) or more birds;
- ! Swine operations with ten (10) or more sows or fifty (50) or more swine;
- ! Livestock sale barns averaging more than fifty (50) head per day or three hundred fifty (350) head per week; or
- ! Any other animal confinement operation causing or likely to cause pollution.³⁵

³⁰ Wastewater facilities include pipelines or conduits, pumping stations, force mains, treatment plants, lagoons, or any other structure, device, appurtenance, or facility for collecting, treating, and/or disposing municipal or domestic wastewater which is required to have a permit under MISS. CODE ANN. § 49-17-29 (1999 & Supp. 2001).

³¹ Underground injection means the subsurface emplacement of fluids by well injection. The Underground Injection Control (UIC) program was established under the federal Safe Drinking Water Act of 1974 (SDWA) since injection wells may pose a significant risk to underground sources of drinking water. Underground wells posing such a risk include agriculture drainage wells and wells commonly located at automobile service stations, print shops, dry cleaners, shopping centers, manufacturers, and other commercial and industrial establishments; *see* 40 C.F.R. § 146.5 (1996).

³² 33 C.F.R. § 323.4 (1996).

³³ All operations constructed, enlarged, or significantly altered after August 15, 1979 are required to apply for a state Wastewater Treatment permit; if facilities were built before August 15, 1979, they are not automatically required to apply for a permit but may be required to apply for a permit if the facility causes or is likely to cause pollution; *see* OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § IV(C)(2) (1995).

³⁴ This includes grade A dairies applying to the Mississippi Health Department for reissuance of a revoked Health Department permit; *see* OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § IV(C)(1) (1995).

³⁵ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § IV(C)(2) (1995).

AFOs with fewer livestock than those listed above do not generally require an animal waste operating permit.³⁶ The state Wastewater Treatment permit gives the holder the legal right to operate an AFO, i.e., an animal waste treatment facility. It does not give the holder a license to discharge animal waste into state waters or upon any area likely to pollute state waters.

When an AFO is required to obtain a state Wastewater Treatment permit, the operator must submit a completed wastewater treatment design worksheet from the Natural Resources Conservation Service (NRCS) or submit a waste disposal system design that ultimately will be approved by DEQ. Submission of the design or the design worksheet constitutes an application³⁷ for an animal waste disposal permit.³⁸

Land application of dry litter³⁹ is allowed, but it must be at least twenty-five feet (25') from the nearest adjoining property line and at least one hundred fifty feet (150') from the nearest occupied dwelling owned by another. Application of all other types of animal waste is allowed, but it must be at least fifty feet (50') from the nearest adjoining property line and at least three hundred feet (300') from the nearest occupied dwelling owned by another.⁴⁰

Upon application for a state Wastewater Treatment permit, an onsite inspection by DEQ is conducted to determine if all requirements are being followed.⁴¹ After DEQ inspection and

³⁶ However, the determination of whether a permit is required for smaller operations is decided by DEQ on a case-by-case basis.

³⁷ Other information such as general site and operation information may be required as well as compliance history, evidence of financial capability and financial responsibility, and control over the AFO and the correspondent real property; see OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § II(A) (1995).

³⁸ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § IV(C)(4).

³⁹ Dry litter is presumed to be the waste from poultry mixed with typical poultry house bedding materials.

⁴⁰ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § IV(N) (1995).

⁴¹ Minimum buffer zone distances exist for certain AFOs and their correspondent waste applications; generally, the buffer zone of livestock facilities or operations to occupied dwellings or commercial establishments owned by others is one thousand feet (1000'), to adjoining property lines is three hundred feet (300'), and to private underground water wells is one hundred feet (100'). The buffer distance for poultry houses constructed, enlarged, or significantly altered after February 24, 1994 that generate dry litter or waste to occupied dwellings or commercial establishments is six hundred feet (600') and to adjoining property lines is one hundred fifty feet (150'). Agricultural producers should check

approval of the application, the application is then presented to the EQPB for approval. The EQPB is free to deny a permit if the EQPB determines that the discharge will adversely affect any receiving waters in the area, the environment, or the public health or welfare.⁴² The EQPB either approves or denies the state Wastewater Treatment permit application. A Draft permit is first issued upon EQPB approval but is subject to revocation after public notice and a thirty day (30 da.) comment period.⁴³ Along with each public notice of a Draft permit, the EQPB issues and makes available fact sheets to the public that provide a description and location of the facility or operation and a summary of permit conditions along with a discussion of the final determination procedures. Public hearings may be held if, following public notice, the EQPB receives an objection with a request or a petition for a hearing.⁴⁴ If the EQPB fails to take timely action during this process for a state Wastewater Treatment permit, the original Draft permit remains in effect until final action is taken by the EQPB.⁴⁵

Regarding any challenge or objection of an EQPB permit decision, a written request for a formal hearing before the EQPB must be filed within thirty days (30 da.) of the decision. Witness testimony and evidence opposing the EQPB decision may be presented at the hearing.⁴⁶ If the applicant still disagrees with the EQPB decision following the formal hearing, judicial review through the state court system becomes the next step.⁴⁷ Agricultural producers should note,

with the DEQ, the county extension office, or the local NRCS office to determine other specific distances and details; variances may be granted in a few situations; notice to affected property owners within the buffer zone must be given; and notice must include the designated time for comments to be submitted.

⁴² OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § IV(C)(1)(e).

⁴³ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 §§ III(A)(B)(C) (1995).

⁴⁴ *See* OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § III(G) (1995).

⁴⁵ As long as the applicant is not the contributor to delay; *see* OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § V(B) (1995).

⁴⁶ Agricultural producers should take note that the official record is made at the formal hearing before the EQPB. No additional evidence or witness testimony made be added after the formal hearing before the EQPB for any subsequent appeal, even when the appeal is made through the state court system.

⁴⁷ MISS. CODE ANN. § 49-17-29(4)(b) (1999 & Supp. 2001).

however, that an appeal in chancery court must be filed within twenty days (20 da.) of the EQPB formal hearing decision along with a bond to cover court costs. Following an unsatisfactory decision by the chancery court, any further appeal is lodged with the Mississippi Supreme Court.⁴⁸

Regarding any EQPB permit approvals involving trade secret information or confidential information (e.g., marketing, financing, processes, devices, or production capabilities), the applicant must submit a claim of confidentiality at the time of the permit application. The information is then entitled to confidential treatment unless the request is denied. However, the applicant is informed of any denial before the information is disclosed.⁴⁹

Violators of state Wastewater Treatment permit terms and conditions may be subject to a civil penalty assessed by the EQPB in an amount up to twenty-five thousand dollars (\$25,000.00) for each day of violation.⁵⁰ Likewise, a failure to obtain the appropriate permit also subjects the violator to a civil penalty up to twenty-five thousand dollars per day (\$25,000.00/da.) of violation.⁵¹ Additionally, intentional false statements, representations, or certifications in any application or document filed with the EQPB may subject the violator to a ten thousand dollar (\$10,000.00) fine, imprisonment up to five years (5 yrs.), or both.⁵²

Suspected violators are notified of the alleged violation and their opportunity for a hearing. If the suspected violator fails to appear for the hearing, the EQPB may find the party guilty by default.⁵³ Determination of the civil penalty is based on the EQPB's consideration of six (6) factors: (1) willfulness of the violation, (2) damage to natural resources; (3) cost of

⁴⁸ MISS. CODE ANN. § 49-17-29(5) (1999 & Supp. 2001); *see also* OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, or contact DEQ.

⁴⁹ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § III(F) (1995).

⁵⁰ MISS. CODE ANN. §§ 49-17-31 and -43 (1999).

⁵¹ MISS. CODE ANN. § 49-17-43 (1999).

⁵² MISS. CODE ANN. § 97-7-10(1); OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § II(E) (1995).

⁵³ MISS. CODE ANN. § 49-17-33 (1999).

restoration and abatement, (4) economic benefit to violator, (5) seriousness of the violation, and (6) past performance history.⁵⁴

The EQPB has the authority to determine if an emergency exists and, if so, to issue any necessary emergency orders to cease or modify certain activities. The EQPB order may be enforced through a court ordered injunction if necessary.⁵⁵ The EQPB may revoke or terminate a permit for cause. Some examples of actions that qualify as cause include:

- ! Failing to comply with any condition of the permit;
- ! Failing to fully disclose facts; or
- ! Engaging in activities that endanger human health or the environment.⁵⁶

For AFOs already permitted, any ownership change affecting more than fifty percent (50%) of the equity requires EQPB approval. An application for approval to transfer ownership must be submitted to the EQPB along with the new owner's demonstration of financial resources, operational expertise, and environmental compliance history.⁵⁷

Water or air pollution complaints submitted to the EQPB against an AFO or its activities may cause an EQPB investigation to be initiated to determine if a hearing is needed.⁵⁸ The EQPB has authority to enter private property at reasonable times to investigate conditions relating to air or water pollution and to require the installation of monitoring equipment.⁵⁹ Any subsequent EQPB actions usually are determined within thirty days (30 da.) of the conclusion of the hearing.

Before adopting, amending, or repealing any rules or regulations on water and air pollution or water and air quality, the CEQ must conduct a public hearing. Public notice of the hearing must be placed in a newspaper with a general circulation throughout the state once a

⁵⁴ MISS. CODE ANN. § 49-17-43(g) (1999).

⁵⁵ MISS. CODE ANN. § 49-17-27 (1999).

⁵⁶ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § V(C) (1995), incorporating by reference 40 C.F.R. § 122.64(A) (1995).

⁵⁷ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS, UNDERGROUND INJECTION CONTROL (UIC) PERMITS, STATE PERMITS, WATER QUALITY BASED EFFLUENT LIMITATIONS AND WATER QUALITY CERTIFICATION, CH. 1 § V(C) (1995).

⁵⁸ MISS. CODE ANN. § 49-17-35 (1999).

⁵⁹ MISS. CODE ANN. § 49-17-21 (1999).

week for three successive weeks, and the notice must contain a description of the proposed regulation and the date, time, and place of the hearing. Additionally, the CEQ must adhere to the requirements of the Mississippi Administrative Procedures Law.⁶⁰

Producer Note: A Water Pollution Control Revolving Fund is available for projects which help control water pollution. These funds are available to qualified political subdivisions at or below market interest rates with terms up to twenty years (20 yrs.). The repayment period begins not more than one year after the project is completed.⁶¹

6. *Mississippi Coastal Management Program*

Because of Mississippi's coastal location and geography, there are special water quality commissions and wastewater districts in place to help improve and preserve Mississippi's water quality.⁶² Mississippi recognizes that its estuarine shorelines,⁶³ coastal wetlands,⁶⁴ and the corresponding ecosystems are vulnerable to erosion, flooding, and other adverse effects of wind and water. It is Mississippi's public policy to encourage the preservation of such areas and prevent despoliation and destruction.⁶⁵ This policy and the legislation that guides coastal management is set out in the Mississippi Coastal Wetlands Protection Act (CWPA).⁶⁶

The 1972 federal Coastal Zone Management Act (CZMA)⁶⁷ provided funding and technical assistance for the coastal states if they voluntarily developed state coastal programs that were approved to protect water quality⁶⁸ from nonpoint pollution. For approval, states had to

⁶⁰ MISS. CODE ANN. § 49-17-21 (1999).

⁶¹ MISS. CODE ANN. § 49-17-61 (1999).

⁶² The Commission on Marine Resources cooperates with the CEQ for enforcement of the AWPCA in and on the salt waters of the state; *see* MISS. CODE ANN. § 47-17-22 (1999).

⁶³ Estuarine shorelines relate to water passages where the ocean tide meets a river current, for example, coastal wetlands, sounds, bays, and brackish waters.

⁶⁴ Coastal wetlands means all publicly owned lands subject to the ebb and flow of the tide which are below the watermark of ordinary high tide; publicly owned accretions above the watermark of ordinary high tide; and publicly owned submerged water-bottoms below the watermark of ordinary high tide; coastal wetlands also includes the flora and fauna of these areas; *see* MISS. CODE ANN. § 49-27-5 (1999).

⁶⁵ MISS. CODE ANN. § 49-27-3 (1999); exceptions to this policy are only in cases where alteration of such areas would serve a higher public interest but still fall within compliance of stated public purposes.

⁶⁶ MISS. CODE ANN. §§ 49-27-1 *et seq.* (1999 & Supp. 2001).

⁶⁷ 16 U.S.C. §§ 1455 *et seq.*

⁶⁸ Based on water quality standards.

demonstrate that they had programs (including enforceable policies and authorities) to implement such policies.

Under Section 6217 of the Coastal Zone Reauthorization Amendments of 1990 (CZARA), states that had voluntarily developed coastal zone management programs were mandated to further restore and protect coastal waters from nonpoint source pollution by developing a nonpoint pollution program with specific management measures. States with federally-approved coastal zone management programs that refused or failed to develop programs with specific management measures faced reductions of federal financial support for their previous coastal zone management program and the new specific management measures program. Mississippi was one of twenty-nine states that developed and implemented an approved program targeting the prevention of nonpoint source pollution using specific management measures.

Mississippi's present Coastal Management Program assures responsible development and use of the coast by overseeing coastal activities. Coastal wetlands, coastal hazards, impacts of population growth, and development of coastal areas are monitored by the Department of Marine Resources (DMR) in conjunction with the Commission on Marine Resources (CMR).⁶⁹ Besides the DMR and CMR, both the Waveland Regional Wastewater Management District and the Mississippi Gulf Coast Regional Wastewater Authority have been created.⁷⁰ The laws creating and defining these authorities refer to agriculture as a possible source of contamination. These authorities have been given the power to develop reasonable rules and regulations to help improve and protect Mississippi's waters. These authorities also have the power to inspect and fine violators who disregard such rules and regulations.⁷¹

Producer Note: Agricultural producers should check with their local governments to determine if their operations or activities fall under the jurisdiction of either the Waveland Regional Wastewater Management District or the Mississippi Gulf Coast Regional Wastewater Authority. A producer in these areas may be subject to additional requirements set forth by the respective authorities.

Mississippi specifically exempts certain activities, certain areas, and certain entities, however, these must still adhere to Mississippi's declared policy of preservation and protection of these coastal areas. Generally, the exemption list includes but is not limited to:

⁶⁹ MISS. CODE ANN. §§ 49-15-301 to -307 (1999 & Supp. 2001); the DMR regulates all matters pertaining to all saltwater aquatic life and marine resources under the CWPA and the Public Trust Tidelands Act (PTTA).

⁷⁰ MISS. CODE ANN. §§ 49-17-161 through 49-17-353 (1999).

⁷¹ MISS. CODE ANN. §§ 49-17-161 through 49-17-353 (1999).

- ! Emergencies;
- ! Recreational activities such as swimming, hiking, hunting, fishing, and boating;
- ! Construction of piers;
- ! Normal maintenance and repairs of roads, piers, highways, and bulkheads;
- ! Government structures that accommodate shipments by ocean-going vessels from pipeline buoys or superports;
- ! Activities of certain park and port commissions and authorities and wetland areas under these authorities;
- ! Oil and gas related activities in wetland areas operating under a current and valid permit; and
- ! Other activities that after an on-site inspection have no harmful impact on the environment and cause no substantial change in wetlands.⁷²

Regulated activities in coastal areas must be covered by a permit issued by the DMR. These activities include but are not limited to:

- ! Dredging, excavating, removing, dumping, filling, depositing flora, fauna, soil or aggregate of any kind in wetlands; and
- ! Erecting structures that affect or interfere with the tide or that would be considered water dependent industries.⁷³

To obtain a permit for regulated activities, one must submit an application to the DMR which contains the following information:⁷⁴

- ! The name and address of applicant and adjacent property owners or owners of riparian rights;
- ! A detailed map and description of the activity including any proposed equipment to be used;

⁷² MISS. CODE ANN. § 49-27-7 (1999 & Supp. 2001).

⁷³ MISS. CODE ANN. § 49-27-9 (1999 & Supp. 2001).

⁷⁴ MISS. CODE ANN. § 49-27-11 (1999).

- ! The purpose, public benefit, estimated cost, and proposed completion date of the project;
- ! An environmental impact statement (EIS);
- ! A listing of any planned measures to reduce detrimental effects to the coastal wetlands both during and after the proposed activity; and
- ! A certification that a permit has been applied for from the CEQ,⁷⁵ Corps of Engineers, or any other local government entity or, in the alternative, that a permit is not required.

The DMR handles all notifications regarding the dredging application to state and local officials as well as owners of adjacent property and riparian rights so that any objections can be properly heard, reviewed, and addressed. Notice is published once a week for at least three (3) consecutive weeks in a newspaper of general circulation.⁷⁶ Anyone objecting to the proposed activity in writing may appear at a scheduled public hearing. In all cases, the applicant has a right to a hearing.⁷⁷ Additionally, the applicant may not be denied a hearing after a DMR decision denying the permit, but the applicant bears the burden of proof to show the permit should be granted.⁷⁸ Even in cases of approval, the DMR may impose conditions and limitations on the dredging permit including the imposition of a performance bond.⁷⁹ The DMR at all times has the authority to revoke or suspend a permit if it finds that the permit holder is not in compliance or has exceeded the scope of the permit.⁸⁰ Whether the DMR decision grants or denies the application, the DMR must make known its findings and reasons for its actions including whether the public interest is served or adversely affected.⁸¹ DMR decisions must be addressed within ninety days (90 da.) of the application or within thirty days (30 da.) of the hearing for suspension or revocation.⁸²

⁷⁵ Factors the DMR considers in permit decisions involving the dredging of new channels include the expressed Mississippi public policy, public benefit, and the ecological, economic, commercial, recreational, and aesthetic value of the wetlands affected; *see* MISS. CODE ANN. § 49-27-27.

⁷⁶ MISS. CODE ANN. § 49-27-15 (1999).

⁷⁷ MISS. CODE ANN. § 49-27-17 (1999).

⁷⁸ MISS. CODE ANN. § 49-27-19 (1999).

⁷⁹ MISS. CODE ANN. §§ 49-27-29 and -31 (1999 & Supp. 2001).

⁸⁰ MISS. CODE ANN. § 49-27-33 (1999).

⁸¹ MISS. CODE ANN. § 49-27-35 (1999).

⁸² MISS. CODE ANN. § 49-27-37 (1999).

Any appeals of DMR decisions must be filed with chancery court of the county with jurisdiction⁸³ within thirty days (30 da.) of the permit application action. The DMR decision will be upheld if the DMR decision is supported by substantial evidence, is consistent with the public policy, is not arbitrary or capricious, and does not violate constitutional rights.⁸⁴ Any appeals taken from the chancery court must be directed to the Mississippi Supreme Court. If desired, a party appealing may request a supersedeas bond⁸⁵ from the chancery court.⁸⁶

Violators of the regulated activities under the CWPA are subject to injunctions, civil penalties, criminal penalties, and any other Mississippi statutory or common law remedy. Likewise, failure to obtain the proper permit for a regulated activity subjects the violator to civil penalties up to one thousand dollars (\$1,000.00) for residential activities and up to ten thousand dollars (\$10,000.00) for commercial and industrial type activities, but the penalty is limited to these amounts only if the violator subsequently submits a proper application for a permit that is approved by the DMR for the unauthorized activity.

Activities that violate the CWPA but fall outside the after-the-fact authorization described above may be enjoined and subject to civil penalties of five hundred dollars per day (\$500.00/da.) for every day the violation existed, subject to wetland restoration damages, and subject to punitive damages up to five hundred dollars per day (\$500.00/da.) of violation beyond the deadline established for restoration of the wetland referenced in the injunction.⁸⁷

Regardless of any civil penalties, all violations of the CWPA impose criminal charges. A violator is charged with a misdemeanor and is punished by a minimum fine of one hundred dollars (\$100.00) that may be increased to one thousand dollars (\$1,000.00) or imprisonment up to thirty days (30 da.) or both.⁸⁸

The CMR has the responsibility to promulgate and administer regulations for the CWPA provisions.⁸⁹ Duties of the DMR under the CWPA are:

⁸³ Jurisdiction and venue lies in any county where the alleged violation occurs or where property is affected by violation; *see* MISS. CODE ANN. § 49-27-53 (1999).

⁸⁴ MISS. CODE ANN. § 49-27-39 (1999).

⁸⁵ A supersedeas bond creates a stay of legal proceedings.

⁸⁶ MISS. CODE ANN. § 49-27-49 (1999).

⁸⁷ MISS. CODE ANN. § 49-27-55 (1999).

⁸⁸ MISS. CODE ANN. §§ 49-27-51 and -57 (1999).

⁸⁹ MISS. CODE ANN. §§ 49-27-61 to 65 (1999).

- ! Collection of fees for any materials removed from wetlands under a valid permit;
- ! Inspections of the coastal wetlands to determine whether violations have been or are being committed;
- ! Preparation of charts showing the location of coastal wetlands;
- ! Public education by providing scientific and economic knowledge concerning coastal wetlands;
- ! Removal of derelict vessels from manmade canals that have a navigable connection to coastal wetlands;⁹⁰ and
- ! Recognition of the national CZARA policy and the preparation of an overall plan for the use of coastal and private wetlands including any areas which should be set aside as estuarine sanctuaries.⁹¹

Coastal wetlands are not subject to ad valorem taxes against the abutting landowner and, thus, are excluded from property assessments. Any and all fees collected by the DMR under the CMPA are deposited into the Seafood Fund.⁹²

7. Mississippi Shoreline and Beach Preservation Districts

Mississippi has legislation that allows contiguous coastal areas⁹³ that experience shoreline and beach erosion and related problems to become incorporated as a preservation district.⁹⁴ The purpose of the district is to provide planning, design, construction, operation, maintenance, and betterment for shoreline and beach improvement projects including habitat restoration projects.

⁹⁰ MISS. CODE ANN. § 49-27-71 (1999 & Supp. 2001); derelict vessels are determined by the DMR and must further be a public hazard or environmental hazard which was declared abandoned in excess of ninety (90) days; derelict vessel owners may be liable to the state for any necessary restoration to affected coastal wetlands and up to two times any cost incurred for the removal of the vessel up to five hundred dollars per day (\$500.00/da.) of violation. Jurisdiction is in the chancery court where the vessel is located.

⁹¹ MISS. CODE ANN. §§ 49-27-59, -61, -63, and -65 (1999).

⁹² The Seafood Fund is a special trust fund that includes revenues collected by DMR for saltwater licenses and taxes, permits, fines and penalties, and confiscated catches for the operation of the DMR for artificial reefs; *see* MISS. CODE ANN. § 49-15-17 (1999 & Supp. 2001); *see also* § 49-27-69 (1999);

⁹³ The coastal areas must be within a county and not within the boundaries of any municipalities.

⁹⁴ District areas exclude Harrison County and Hancock County; *see* MISS. CODE ANN. §§ 49-28-1 *et seq.* (1999).

To form a shoreline and beach preservation district, one must petition the county board of supervisors with the signatures and addresses of twenty-five (25) or more landowners within the boundaries of the proposed district area. The petition must include:

- ! Statement of the necessity for the creation of the district;
- ! Proposed name for the district;
- ! Proposed boundaries;⁹⁵
- ! Estimated cost of proposed improvement projects; and
- ! State whether a tax is to be levied upon the members of the district to finance the proposed project and whether the county board of supervisors would make the financial assessments.⁹⁶

A public hearing is scheduled by the county board of supervisors, and notice of the hearing is published in a newspaper of general circulation for no less than three (3) consecutive weeks.⁹⁷ Upon a finding that the creation of such district is economically sound and desirable, the board by resolution declares its intent to create the named district. The board once again publishes notice. This time the published document is called notice of intent to create the named district. If no objections arise, the district is created.

Alternatively, if an objection to the creation of the district is filed by written petition representing twenty percent (20%) or one hundred fifty (150)⁹⁸ of the qualified electors within the proposed district, an election must be called to settle the matter.⁹⁹ If three-fifths (3/5) of those voting in the election vote in favor of the creation, the district may be created by resolution of the board.¹⁰⁰ Otherwise the proposed preservation district fails.

⁹⁵ The boundaries should not include any property used for industrial purposes unless authorized by the landowner by a request in writing to be included; *see* § 49-28-3 (1999).

⁹⁶ MISS. CODE ANN. §§ 49-28-3, -27, and -29 (1999).

⁹⁷ MISS. CODE ANN. § 49-28-5 (1999).

⁹⁸ Twenty percent (20%) or one hundred fifty (150) whichever is less; *see* MISS. CODE ANN. § 49-28-7 (1999).

⁹⁹ MISS. CODE ANN. § 49-28-7 (1999).

¹⁰⁰ MISS. CODE ANN. § 49-28-9 (1999).

Costs for the creation of a district may be born by the county board of supervisors or the board may require the parties filing the petition to bear the costs.¹⁰¹ Within fifteen days (15 da.) after the creation of a shoreline and beach preservation district, an appeal may be brought in the circuit court by any party having an interest in the district who is aggrieved or prejudiced. Otherwise the action creating the new district is final, and the shoreline and beach preservation district becomes a public corporation in perpetuity.¹⁰²

A board of five (5) commissioners is appointed by the county board of supervisors from the residents of the new district. The board of commissioners has the authority to direct the shoreline and beach preservation district. Powers of the commissioners are similar to the general powers given to a local governmental entity¹⁰³ and include, but are not limited to, the power:

- ! To exercise eminent domain;¹⁰⁴
- ! To issue negotiable special improvement bonds for districts projects or the improvement or extension of district structures or facilities;¹⁰⁵
- ! To levy a special tax¹⁰⁶ on all taxable real property in the district for the support of the district including planning, design, construction, operation, maintenance, or improvement of district projects and retirement of any bonds issued by the district;¹⁰⁷ and
- ! To levy and collect special assessments on certain property located in the district for authorized purposes.¹⁰⁸

¹⁰¹ MISS. CODE ANN. § 49-28-11 (1999).

¹⁰² MISS. CODE ANN. §§ 49-28-13 and -15 (1999).

¹⁰³ MISS. CODE ANN. § 49-28-19 (1999); although the powers are to be liberally construed.

¹⁰⁴ MISS. CODE ANN. § 49-28-21 (1999).

¹⁰⁵ MISS. CODE ANN. §§ 49-28-23, -25, and -35 (1999); the issuance of bonds is limited by legislation.

¹⁰⁶ Tax may not exceed four (4) mills annually without a special election approved by three-fifths (3/5) majority of those voting.

¹⁰⁷ MISS. CODE ANN. §§ 49-28-27 and -35 (1999).

¹⁰⁸ MISS. CODE ANN. §§ 49-28-29, -31, and -33 (1999); although a written objection by a majority of the landowners to be assessed would stop the special assessment.

8. *Mississippi Water Management Districts*

a. *Joint Water Management Districts*

A joint water management district may be created for the purpose of establishing a water supply system, conserving water resources, developing additional water resources, or any other water or wastewater management function not being performed by an existing water management district.¹⁰⁹ A joint water management district is created by identical resolutions being passed by each interested local governmental unit setting forth:

- ! Geographical boundaries;
- ! Functions to be performed;
- ! Statement of the necessary purpose;
- ! Proposed district name; and
- ! Any other pertinent information of the proposed district.

Following the matching resolutions, a notice of the intent to create a water management district must be published and a public hearing on the matter must be held to allow public comments and objections to be heard.¹¹⁰

After the public hearing and a finding by each local government unit that public convenience and necessity requires such a district and that the creation of such a district is economically sound and feasible, the joint water management district may be created and organized by:

¹⁰⁹ Except for the purpose of constructing, contracting for construction of, or serving as a local sponsor of the construction of any dam or other flood control facility or project to control flooding on these rivers: Amite River, Bayou Pierre River, Big Black River, Biloxi River, Bogue Chitto River, Bowie River, Buffalo River, Buttahatchee River, Chickasawhay River, Coldwater River, Chunky River, Escatawpa River, Hatchie River, Homochito River, Jourdan River, Leaf River, Little Sunflower River, Mississippi River, Noxubee River, Ofahoma River, Pascagoula River, Pearl River, Strong River, Sunflower River, Tallahatchie River, Tangipahoa River, Tippah River, Tombigbee River, Wolf River, Yalobusha River, Yazoo River, and Yockanookany River; *see* MISS. CODE ANN. § 51-8-3 (1999).

¹¹⁰ MISS. CODE ANN. §§ 51-8-5 and -7 (1999).

- ! Passing a second resolution following the publication of such findings without objection or
- ! Filing a petition¹¹¹ to hold an election on the matter whereby the creation of the district is approved by a three-fifths (3/5) majority.¹¹²

Any appeals on the creation of a joint water management district are directed to the circuit court of the county but must occur within thirty days (30 da.) of the resolution creating such district and must be lodged by a party of interest in the subject matter aggrieved or prejudiced by the governing body's actions.¹¹³ The joint water management district becomes a public corporation in perpetuity after approval by the CEQ.¹¹⁴

A board of commissioners governs a joint water management district. The board is made up of five (5) or more commissioners according to the organizational resolution for such district with representation of at least one (1) member from each county within the newly created district. The board of commissioners possesses the powers that are delineated by statute but include in general the ordinary and necessary powers exercised by a state entity to conduct business. The power does, however, include the power to exercise eminent domain.¹¹⁵

Mississippi allows two (2) or more local governmental units, meaning county or municipal, to create a joint water management district to provide a needed service or function relating to water works improvement projects. Additionally, Mississippi provides that a local governmental unit located within an existing water management district that needs a service or function relating to water works improvement projects must first petition any existing water management district to perform the service or function. If the petition does not receive an affirmative response in a timely fashion, then any two (2) or more local government units may create a joint water management district.

b. Master Water Management Districts

For certain purposes, Mississippi allows master water management districts to be created. Master water management districts may be created to carry out federal government works of

¹¹¹ A petition to hold an election requires twenty percent (20%) or one thousand five hundred (1500) electors, which ever is less; *see* MISS. CODE ANN. § 51-8-11 (1999).

¹¹² MISS. CODE ANN. § 51-8-11 (1999).

¹¹³ MISS. CODE ANN. §§ 51-8-17 and -19 (1999).

¹¹⁴ MISS. CODE ANN. § 51-8-65 (1999).

¹¹⁵ These are the same powers as the statutes set forth for the master water management district listed at MISS. CODE ANN. §§ 51-8-1, -5, -7, -9, -11, -13, -15, -31, -33, -35, -43, -45, and -57 (1999 & Supp. 2001), but generally fall under -27 with additional powers set out in -29.

improvement for the prevention of floodwater damage and conservation, development, utilization, drainage, and disposal of water including impoundments and other related works for water recreation, beautification, and other beneficial uses.¹¹⁶

To create such a district, a petition for creation is filed with the chancery court whereby notice and a time for a hearing is published in a newspaper of general circulation for at least three (3) consecutive weeks. Unless one-third (1/3) of the landowners owning at least one-half (½) of the land within the proposed district object or one-half (½) of the landowners owning at least one-third (1/3) of the land within the proposed district object, the creation of the district proceeds. Additionally, if the chancery court determines that any objections lodged are not sufficient to defeat the purpose of the district, the organization of the district proceeds.

To govern the master district, the chancery court appoints five (5) or more commissioners that are landowners within the master district representing each of the water management districts. After initial organizational staggered service terms, the commissioners serve four-year (4 yr.) terms. Replacement commissioners are also appointed by the chancery court or by a petition directed to the court representing a majority of the landowners in the district.

The commissioners work with the Secretary of Agriculture or head of any other federal agency to develop plans for works of improvement within the master district.¹¹⁷ If any costs accrue above and beyond any federal financial assistance for such project planning, under the review of the chancery court, tax assessments may be levied against all the lands¹¹⁸ within the master district.

Master project plans are filed with the chancery court which publishes notice of the hearing, as described above, where any objections may be heard. The organization of the master district is complete with the court's approval of the improvement work plan if no objections arise or if the chancery court approves the improvement work plan after hearing such objections and determines that the improvement work plan is in the best interest of the landowners within the master district. However, a petition directed to the court representing a majority¹¹⁹ of the landowners within the proposed master district can substitute or override the court's determination.

¹¹⁶ MISS. CODE ANN. § 51-7-1 (1999).

¹¹⁷ The master district must receive approval of any project plans from the board of any levee district within; *see* MISS. CODE ANN. § 51-7-17 (1999).

¹¹⁸ On an acreage or ad valorem basis; *see* MISS. CODE ANN. § 51-7-15 (1999).

¹¹⁹ A majority of the landowners owning one-third (1/3) of the land or one-third (1/3) of the landowners owning a majority of the land within the proposed master district; *see* MISS. CODE ANN. § 51-7-19 (1999).

The completed master water management district becomes a governmental subdivision of the state and a public corporation.¹²⁰ Any appeals on the creation of the master district or on any subsequent order by the chancery court¹²¹ in connection with the master may be lodged in the Mississippi Supreme Court by any landowner within the district.¹²²

The board of commissioners of a master water management district possesses the powers that are delineated by statute but generally include the ordinary and necessary powers exercised by a state entity to conduct business plus the power to exercise eminent domain.¹²³

Rather than by petition as described here, some prominent water management districts were created by statute including the Pat Harrison Waterway District, the Pearl River Basin Development District, the Pearl River Valley Water Supply District, and the Tombigbee Valley Water Management District.

II. GROUNDWATER

A. Mississippi Groundwater Laws and Regulations

Groundwater means water occurring beneath the surface of the ground.¹²⁴ Mississippi's policy toward groundwater is the same as that toward surface water and all other water resources:

- ! That the general welfare of the people requires the water resources of the state be put to beneficial use to the fullest extent possible;
- ! That waste and unreasonable use of water be prevented;
- ! That conservation of water, as to its reasonable and beneficial use, be exercised;

¹²⁰ MISS. CODE ANN. § 51-7-19 (1999).

¹²¹ Orders of the chancery court have the force of a judgment; *see* MISS. CODE ANN. § 51-7-23 (1999). Subsequent work projects are also approved through the chancery court in a similar manner and are appealable to the Mississippi Supreme Court; *see* MISS. CODE ANN. § 51-7-21 (1999).

¹²² MISS. CODE ANN. § 51-7-23 (1999).

¹²³ MISS. CODE ANN. § 51-7-25 (1999).

¹²⁴ MISS. CODE ANN. § 51-3-3(n) (1999); and groundwater also means water located beneath the land surface located wholly or partially within the boundaries of the state; *see* MISS. CODE ANN. § 49-17-403(g) (1999).

- ! That public and private funds, for the promotion and expansion of the beneficial use of water resources, be invested to the end that best serves the interests and welfare of the people.^{125, 126}

Mississippi's water policy¹²⁷ states that the control, development, and use of water for all beneficial purposes rests with the state and that the state must take all measures to effectively and efficiently manage, protect, and utilize the water resources of Mississippi.¹²⁸ The Office of Land and Water Resources (OLWR) within DEQ is primarily responsible for carrying out this charge.¹²⁹

Although the CEQ is the enforcement and regulatory authority for groundwater, the OLWR develops and maintains a statewide data base on water resources information used in the state water management plan. The OLWR is also responsible for:

- ! Processing applications for surface and groundwater use and enforcing correspondent regulatory procedures;
- ! Specifying minimum standards for the construction and decommissioning of wells;
- ! Licensing requirements for well drillers; and
- ! Approving construction plans for dams.

Since 1985, the right to use waters of the state must be publicly claimed and permitted.¹³⁰ The responsibility of submitting a water use claim lies with the landowner or applicant.

¹²⁵ MISS. CODE ANN. § 51-3-1 (1999).

¹²⁶ Subsurface water provisions set forth the requirements for well drillers including licensing procedures; *see* MISS. CODE ANN. §§ 51-5-1 through 51-5-19 (1999). The Mississippi Safe Drinking Water Act of 1976 can be found at MISS. CODE ANN. §§ 41-26-1 to -101(2001).

¹²⁷ Mississippi's groundwater statutes were repealed in 1988; *see* MISS. CODE ANN. §§ 51-5-1 to -19 (1999) and OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS (1994). Mississippi uses federal standards for underground waters relating to pesticides and commercial fertilizers; *see* MISS. CODE ANN. § 49-17-26 (1999).

¹²⁸ Written authorization is required prior to construction, enlargement, repair, or alteration of most dams; *see* MISS. CODE ANN. § 51-3-39 (1999 & Supp. 2001).

¹²⁹ *See also* *infra* page MS-5.

¹³⁰ For wells existing prior to April 1, 1985, the right to use the groundwater had to be publicly claimed within three years, i.e., by March 31, 1988, in order to preserve the right of use. A notice of claim form was required for each well, and failure to do so caused the right to use the water from that well to be deemed abandoned and such right was automatically terminated; *see* MISS. CODE ANN. § 51-3-5 (1999).

Following the cutoff date in 1988, all new requests for the right to use groundwater from an existing well are treated as if the well is newly drilled.

To lawfully drill and use groundwater from a well,¹³¹ a permit from the OLWR must be issued before use of groundwater commences. The intended use of state waters must always be beneficial and consistent with the public interest. The application for the permit to use the groundwater must be notarized and filed with OLWR on the OLWR-provided form¹³² two months in advance of the time water use is scheduled to begin.

A temporary/emergency permit may be granted when public health or safety considerations warrant or a person's economic well-being would be endangered if the permit were not granted.¹³³ The issuance of a temporary/emergency permit, however, in no way guarantees that a final written permit will be approved. If an objection is brought against the proposed beneficial use during the regular application process, fact finding and a determination by the OLWR follows. If the OLWR finds in favor of the protester, the temporary/emergency permit is automatically canceled, and the previously authorized water usage must cease. An appeal of the OLWR decision can be pursued through chancery court.

Required information for the regular permit application¹³⁴ includes:

- ! Estimated dates for construction and completion of the well;
- ! Estimated well specifications, e.g., depth, screen slot size, flow rate, etc.; and

¹³¹ For all wells except temporary emergency and replacement wells; *see* OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS § II. A(2)(b) (1994) *at* <http://www.deq.state.ms/newweb/olwrhome.nsf/pages/Regulations>.

¹³² The form is available *at* <http://www.deq.state.ms.us/newweb/olwrhome.nsf/pages/PermittingMonitoring>.

¹³³ A temporary/emergency permit will not be issued unless the applicant can demonstrate that life, health, or property will be threatened or that financial hardship will result if the proposed well is permitted through the normal application process; *see* OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS § II. E (1994) *at* <http://www.deq.state.ms/newweb/olwrhome.nsf/pages/Regulations>.

¹³⁴ Applications not finalized within one year (1 yr.) are deemed null and void; however, variances may be granted for mitigating circumstances; *see* OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS § II. A(2)(b) (1994) *at* <http://www.deq.state.ms/newweb/olwrhome.nsf/pages/Regulations>.

- ! A suitable map showing the location of all wells and enough detail to find the well, any irrigated lands or fish ponds, section lines (with townships and ranges marked), highways, county roads, utility rights-of-way, communities, rivers, streams, lakes, and other large bodies of water.¹³⁵

After receiving a completed permit application, the OLWR sends the applicant a prepared document called a public notice of intent to use waters of the state. The applicant or landowner must publish the prepared notice at least one time per week for three consecutive weeks in a newspaper of general circulation in the county where the well will be located. After publication of the notice, the proof of publication issued by the newspaper publisher is sent to the OLWR. If sufficient interest is expressed through public comment, a hearing will be held on the application for the proposed withdrawal of state waters. Otherwise, the permit application comes before the OLWR for approval and issuance. A small fee is charged for each well or withdrawal point.

Although a permit must be issued before the use of groundwater from the well may commence, there are a few exemptions from the water use permit requirement including:

- ! Wells and nonpublic¹³⁶ systems supplying water for domestic use;
- ! Wells with a casing smaller than six inches (6") in diameter;¹³⁷ or
- ! Relief wells installed to protect the integrity of a structure such as a dam or levee.

¹³⁵ See OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS § II. A(2)(b) (1994) at <http://www.deq.state.ms/newweb/olwrhome.nsf/pages/Regulations>.

¹³⁶ Systems not defined as public systems by the federal Safe Drinking Water Act; see 42 U.S.C. §§ 300g-1 *et seq.* (1996).

¹³⁷ Some exceptions to the exemptions exist; see OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS § II. D(7)(b) and (c) (1994) at <http://www.deq.state.ms/newweb/olwrhome.nsf/pages/Regulations>.

Although a permit to use the groundwater is issued, it may also be revoked¹³⁸ by the OLWR for the following reasons:

- ! Noncompliance with any condition in the permit;
- ! Failure by the landowner or applicant to fully disclose all relevant facts during the permit application process or misrepresentation by the landowner or applicant of any relevant facts at any time; and
- ! A determination by the OLWR that continued use of the water would be detrimental to the public interest and that the only solution is revocation or termination of the permit.¹³⁹

A groundwater use permit may be modified for the following reasons:

- ! Any increase in the amount of water used from a well or surface water withdrawal point;¹⁴⁰
- ! Any change in permit parameters, e.g., change of ownership, change of applicant, change of mailing address, or changes in permit conditions.
- ! Any errors in the permit; or
- ! New regulations or a judicial decision.¹⁴¹

¹³⁸ A permittee usually receives at least sixty (60) days written notice prior to any final action to modify, revoke, or terminate a permit; *see* OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS § II. D(2)(d) (1994) at <http://www.deq.state.ms/newweb/olwrhome.nsf/pages/Regulations>. Procedures for hearings and appeals are given in MISS. CODE ANN. §§ 49-17-29 (4) and (5) (1999 & Supp. 2001).

¹³⁹ *See* OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS § II. D (2)(a) (1994) at <http://www.deq.state.ms/newweb/olwrhome.nsf/pages/Regulations>.

¹⁴⁰ Persons using less than 20,000 gallons per day of water are not subject to reporting requirements, however, a request for an increase in volume may require publication of notice of intent to use additional water. Agricultural producers should always contact OLWR in these circumstances. Otherwise, permit modifications generally do not require public notice.

¹⁴¹ *See* OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS § II. D(2)(b) (1994) at <http://www.deq.state.ms/newweb/olwrhome.nsf/pages/Regulations>.

Permits for water use will normally be issued for a period of ten (10) years.¹⁴² Six months prior to the expiration date of the permit, the OLWR sends, by certified mail, a notice to the permittee to re-apply in order to maintain the right to use water.¹⁴³

Authorization for surface water withdrawals which results in less than the established minimum flow may be allowed if the applicant:

- ! Provides written assurance that water will be returned to the stream in substantially the same amount as that removed and the returned water quality meets requirements of CWA discharge permits;
- ! Places metering devices on both the intake and discharge devices to measure flow rates of water; and
- ! Reports the volumes of water withdrawn and discharged on a quarterly basis.¹⁴⁴

The Mississippi Agricultural Chemical Groundwater Monitoring Program was instituted in 1987 by DEQ to monitor the freshwater aquifers of the state for agricultural chemicals and other pollutants. Testing was focused on the northwest where the largest volumes of agricultural chemicals are applied. Results indicate that the overall quality of Mississippi's groundwater supply is relatively unaffected by agricultural activities.¹⁴⁵

B. Mississippi Environmental Protection Fee

One of Mississippi's laws relating to groundwater protection is the environmental protection fee levied on motor fuels. This fee primarily funds site studies, site clean-up activities, and third party damage claims arising from leaking underground petroleum storage tanks.^{146, 147} The fee is prorated at four-tenths (0.4 or 4/10) of one cent per gallon of motor fuel and collected as a one-time fee by motor fuel distributors that sell to retail users in Mississippi. All

¹⁴² Longer permit terms may be allowed for public entities.

¹⁴³ *see* OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS § II. D(5)(b) (1994) at <http://www.deq.state.ms/newweb/olwrhome.nsf/pages/Regulations>.

¹⁴⁴ *See* OFFICE OF LAND AND WATER RESOURCES, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, SURFACE WATER AND GROUND WATER USE AND PROTECTION REGULATIONS § II. D(6)(b) (1994) at <http://www.deq.state.ms/newweb/olwrhome.nsf/pages/Regulations>.

¹⁴⁵ *See* Groundwater Planning Branch, at <http://www.deq.state.ms.us/newweb/opchome.nsf/pages/groundwater>.

¹⁴⁶ MISS. CODE ANN. §§ 49-17- 401 to 435 (1999 & Supp. 2001).

¹⁴⁷ No equipment purchases are allowed; *see* MISS. CODE ANN. § 49-17- 407(6) (1999).

environmental protection fees are deposited into the Mississippi Groundwater Protection Trust Fund.¹⁴⁸

Producer Note: Agricultural producers should contact the Mississippi Office of Land and Water Resources (OLWR) within DEQ or the Mississippi Department of Agriculture and Commerce (MDAC) to determine the current status of groundwater regulation and the groundwater pesticide management plan required for Mississippi.

C. Mississippi Underground Storage Tanks

The federal RCRA¹⁴⁹ authorizes states to assume the Underground Storage Tank Release Detection, Prevention, and Correction Program upon approval by the EPA of a state program that no is less stringent than the federal program. In 1990, Mississippi became the first state to receive tentative EPA approval for such a program.¹⁵⁰ The Mississippi legislature enacted the Mississippi Underground Storage Tank Act of 1988 (USTA) that specifically targeted owners, operators, and installer of USTs.¹⁵¹ The Mississippi USTA also established the Groundwater Protection Trust Fund¹⁵² (See page MS- 33).

Mississippi law parallels the federal law and prohibits the installation, alteration, or removal of an underground storage tank (UST) without first having been certified by the EQPB.¹⁵³ An UST is any container or combination of containers including tanks, vessels, enclosures, or structures together with appurtenances used to contain regulated substances, under CERCLA, and petroleum products where the volume is ten percent (10%) or more beneath the surface of the ground. Exceptions to this definition include farm or residential tanks with a capacity of one thousand one hundred gallons (1100 gal.) or less that are used for storing motor fuel for noncommercial purposes, tanks used for storing heating oil for consumptive use on the premises, septic tanks, pipeline facilities, surface impoundments such as pits, ponds, or lagoons, storm water or wastewater collection systems, flow-through process tanks, liquid traps or associated gathering lines directly related to oil or gas production and piping connected to any of the aforementioned tanks, storage tanks in an underground area such that the storage tank is

¹⁴⁸ MISS. CODE ANN. § 49-17- 405 (1999).

¹⁴⁹ 42 U.S.C. § 6991 *et seq.*

¹⁵⁰ John E. Milner and Charles A. Waggoner, OVERVIEW OF MAJOR FEDERAL ENVIRONMENTAL ACTS AND REGULATIONS FOR THE GENERAL PRACTITIONER, 60 Miss.L.J. 1 at 29 (1990).

¹⁵¹ MISS. CODE. ANN. §§ 49-17-401 to -433 (1999 & Supp. 2001).

¹⁵² MISS. CODE ANN. § 49-17-405 (1999).

¹⁵³ MISS. CODE. ANN. §49-17-429 (1999).

situated upon or above the surface of the floor, and any other tanks exempted by the EPA.¹⁵⁴ The EQPB is authorized to collect an annual regulatory fee for each underground storage tank in use up to one hundred dollars per tank to fund administration of the Mississippi USTA.¹⁵⁵ This fee is due on July 1 of each year. A fifty percent (50%) penalty is added if the fee is not paid within thirty days (30 da.) after the due date.

Other rules including the notification of abandoned tanks; standards for new and existing tanks; registration of tanks in use; closure requirements; prevention, detection, and correction actions of releases; standards for monitoring, testing, reporting, and record keeping; and requirement for financial responsibility are determined by the EQPB.¹⁵⁶ Variances and temporary emergency variances may be granted by the EQPB in certain situations. The EQPB also administers the Leaking Underground Storage Tank (LUST) Trust Fund established by the federal superfund amendments and reauthorization act.¹⁵⁷

The EQPB has authority to require owners of USTs to furnish information and conduct monitoring or testing when pollution or suspected pollution exists. The EQPB may also enter the premises at reasonable times where an UST is located to inspect and obtain samples of regulated substances and to conduct monitoring or testing of the tanks or surrounding soil, air, and water.¹⁵⁸ Decisions of the EQPB may be appealed.¹⁵⁹

Violators of the Mississippi USTA and DEQ regulations promulgated under it are subject to civil penalties up to twenty-five thousand dollars (\$25,000.00) per day of violation or continued noncompliance. False information or failure to notify the EQPB or to register a tank and knowingly doing so may bring about civil penalties up to ten thousand dollars (\$10,000.00) per tank.

¹⁵⁴ MISS. CODE. ANN. § 49-17-403 (1999).

¹⁵⁵ MISS. CODE. ANN. §§ 49-17-401 to -433 (1999 & Supp. 2001).

¹⁵⁶ MISS. CODE. ANN. § 49-17-413 and -415 (1999).

¹⁵⁷ MISS. CODE. ANN. § 49-17-423; *see also* 42 U.S.C. §§ 9671-9675.

¹⁵⁸ MISS. CODE. ANN. § 49-17-415 (1999).

¹⁵⁹ MISS. CODE. ANN. § 49-17-431 (1999); *see also* MISS. CODE. ANN. § 49-17-41 (1999).

III. AIR QUALITY

Producer Note: While most agricultural operations are not air pollution sources as defined by the federal Clean Air Act (CAA)¹⁶⁰ nor by Mississippi air quality laws, complaints concerning odor and dust resulting from agricultural activities or operations may arise. These complaints normally come in the form of civil actions filed against agricultural producers as nuisances.

A. Mississippi Air Quality Laws and Regulations

Mississippi's air quality legislation is integrated with the state's water quality legislation. The standards for air and water are set out together in the Air and Water Pollution Control Law (AWPCL).¹⁶¹ Mississippi air legislation was established to conserve, protect, maintain, and improve the quality of the air. Coupled with Mississippi's public policy to prevent, abate, and control new or existing water and air pollution,¹⁶² this law sets out guidelines for unlawful actions pertaining to both air and water standards in the state.¹⁶³ All rules, regulations, and standards relating to air quality, water quality, water discharge standards, and air emissions are consistent with and must not exceed the requirements of federal statutes, regulations, and standards including air pollutants named as air toxics and identified water pollutants.¹⁶⁴

The EQPB has the exclusive authority to make decisions regarding permit issuance, reissuance, denial, modification, or revocation on air pollution control.¹⁶⁵ Unless a person holds a valid and proper permit issued by the EQPB or is exempt from the permit requirement, the following activities are prohibited and declared to be public nuisances:

¹⁶⁰ 42 U.S.C. §§ 7401 *et seq.* (1994).

¹⁶¹ MISS. CODE ANN. §§ 49-17-1 to -43. (1999 & Supp. 2001)

¹⁶² Pollution means contamination or other alteration of the physical, chemical, or biological properties of any waters of the state including change in temperature, taste, color, turbidity, or odor of the waters or such discharge of any liquid, gaseous, solid, radioactive, or other substance or leak into any waters of the state unless it is in compliance with a valid permit or the person is exempted from holding a permit; *see* MISS. CODE ANN. § 49-17-5.1(a) (1999 & Supp. 2001).

¹⁶³ MISS. CODE ANN. § 49-17-29 (1999 & Supp. 2001).

¹⁶⁴ MISS. CODE ANN. § 49-17-34 (1999).

¹⁶⁵ For air pollution permits, water pollution permits, permits required under the Solid Waste Disposal Law of 1974, at §§ 17-17-1 to 17-17-47 (1999 & Supp. 2001), and any other permits falling under the jurisdiction of the CEQ; *see* MISS. CODE ANN. § 49-17-29 (1999 & Supp. 2001).

- ! Causing air pollution in the state;
- ! Placing any wastes or other products or substances in a location where they are likely to cause air pollution;
- ! Discharging any wastes, products, or substances into the air which:
 - Exceed standards of performance, hazardous air pollutant standards, other emission standards set by the CEQ;
 - Reduce the quality of the air below air quality standards or below air quality increments established by the CEQ; or
 - Prevent attainment or maintenance of air quality standards set by the CEQ.¹⁶⁶

The CEQ has the sole authority to:

- ! Set forth air quality standards for ambient air and emissions standards;
- ! Develop comprehensive programs for the prevention, abatement, and control of new and existing air pollution;¹⁶⁷
- ! Issue, modify, or revoke orders:
 - Prohibiting, controlling, or abating discharges of contaminants and wastes into the air and waters of the state;
 - Requiring construction of new disposal systems or air cleaning devices; modifications, extensions, or alterations of existing disposal systems or air cleaning devices; or the adoption of other remedial measures to prevent, control, or abate air and water pollution; and
 - Setting standards of air or water quality;¹⁶⁸

¹⁶⁶ MISS. CODE ANN. § 49-17-29 (1999 & Supp. 2001).

¹⁶⁷ MISS. CODE ANN. § 49-17-17(b) (1999).

¹⁶⁸ MISS. CODE ANN. § 49-17-17(j) (1999).

- ! Require the submission of plans and specifications to inspect disposal systems or air cleaning devices in connection with the permitting process;¹⁶⁹
- ! Require proper maintenance and operation of disposal systems and air cleaning devices;¹⁷⁰ and
- ! Promulgate regulations establishing the conditions, limitations, and exemptions that guide CEQ decisions.¹⁷¹

It is also unlawful to build, erect, alter, replace, use, or operate any equipment¹⁷² that may contaminate the air unless the person is properly operating within the scope of a valid permit.¹⁷³

The CEQ also has the authority to regulate odor¹⁷⁴ and to require plans, specifications, and other information the CEQ deems necessary to carry out the AWPCCL. Agricultural producers should check with the CEQ for the specific details of air pollution control guidelines in DEQ regulations.

The CEQ, in following the federal Clean Air Act, collects an annual Title V permit fee due September 1 of each year for emissions of pollutants which goes into the Air Operating Permit Program Fee Trust Fund.¹⁷⁵ Fees are based on the previous calendar year's actual emissions.¹⁷⁶

¹⁶⁹ MISS. CODE ANN. § 49-17-17(l) (1999).

¹⁷⁰ MISS. CODE ANN. § 49-17-17(m) (1999).

¹⁷¹ A EQPB decision is subject to a formal hearing and appeal.

¹⁷² Except during repairs or maintenance of previously issued, permitted equipment; CAFOs may be exempted, however, no new or existing applications relating to swine CAFOs may be exempted from county regulations and ordinances that were in place and in force on June 1, 1998; *see* MISS. CODE ANN. § 49-17-29(1)(b) (1999 & Supp. 2001).

¹⁷³ MISS. CODE ANN. § 49-17-29(1)(b) (1999 & Supp. 2001).

¹⁷⁴ MISS. CODE ANN. § 49-17-19 (1999).

¹⁷⁵ MISS. CODE ANN. § 49-17-30 (1999).

¹⁷⁶ MISS. CODE ANN. § 49-17-32 (1999).

The CEQ has authority to obtain injunctive relief through the court and to initiate actions and proceed against violators¹⁷⁷ of Mississippi air laws in a manner similar to civil actions.¹⁷⁸ AWPCL violations regarding air quality or air pollution include:

- ! Failing to pay a required federal fee;
- ! Failing to satisfy a permit requirement;
- ! Making a false statement in any required air permit notice or report;
- ! Tampering with an air monitoring device or method required by an air permit.¹⁷⁹

Violators of any of these prohibited activities may be fined up to twenty-five thousand dollars (\$25,000.00) per day of violation. The severity of the penalty depends on the following six (6) determinative factors:¹⁸⁰ (1) the willingness of the violator, (2) the damage to the state's natural resources, (3) the cost of restoration or abatement, (4) the seriousness of the violation including harm to the environment and hazard to the health, safety, and welfare of the public, (5) past actions or performance, and (6) whether there is any economic benefit of noncompliance.¹⁸¹ Any pollution caused by a misadventure or happenstance may be fined in an amount to include the cost of remedial or clean-up action in lieu of, or in addition to, the foregoing fine. If noncompliance or a violation is voluntarily reported, the CEQ must, to the extent possible, reduce the penalty to a de minimis amount if all of the following are true:

- ! The disclosure is made promptly after knowledge of the information is obtained;
- ! The person making the disclosure:
 - Initiates the appropriate corrective actions and pursues those corrective actions with due diligence;

¹⁷⁷ A lender or holder who only maintains an indicia of ownership primarily to protect an interest in the property or facility and does not participate in the management of the property or facility is not considered an owner or operator of the property or facility and is not liable for the prevention, clean-up, removal, remediation, or abatement of any pollution released or dumped on, in, about, or near the property or facility if such pollution was caused by an operator of the property or facility; *see* MISS. CODE ANN. § 49-17-42 (1999).

¹⁷⁸ MISS. CODE ANN. § 49-17-31 (1999).

¹⁷⁹ MISS. CODE ANN. § 49-17-36(1) (1999).

¹⁸⁰ The determining factors are the same as those for penalty decisions regarding water quality.

¹⁸¹ MISS. CODE ANN. § 49-17-36(2) (1999).

- Cooperates with CEQ and the department regarding investigation of the issues; and
 - Is not otherwise required by environmental law to make the disclosure to CEQ;
- ! The information was not obtained through any source other than the voluntary self-evaluation; and
- ! The noncompliance did not result in a substantial endangerment threatening public health, safety, or welfare or the environment.¹⁸²

All fines and penalties collected are deposited into the Pollution Emergency Fund.^{183, 184} Appeals of CEQ decisions must be filed with the CEQ within thirty (30) days of the decision and specify a request for an evidentiary hearing. Decisions following the evidentiary hearings are final unless a second appeal is filed within fifteen (15) days of the evidentiary hearing decision. The second appeal must be directed to the chancery court or another court with subject matter jurisdiction. Such appeals to the court are reviewed and considered only upon the record made before the CEQ and not on any new evidence or testimony.

Producer Note: Swine producers should note that there are no swine CAFO exemptions from county air pollution regulations and ordinances which were in effect on June 1, 1998. In other words, having a valid permit does not exempt the swine CAFO from county regulations and ordinances against air pollution.¹⁸⁵

IV. SOLID WASTE AND HAZARDOUS WASTE

Producer Note: There are several laws which control the use, disposal, and cleanup of hazardous wastes. Agricultural producers who use hazardous chemicals, petroleum, or other products stored in storage tanks should be aware of requirements governing their actions.

¹⁸² MISS. CODE ANN. § 49-17-43(g) (1999).

¹⁸³ MISS. CODE ANN. § 49-17-36(3) (1999).

¹⁸⁴ The purpose of the Pollution Emergency Fund is set out at MISS. CODE ANN. § 49-17-68 (1999 & Supp. 2001).

¹⁸⁵ MISS. CODE ANN. § 49-17-68(2) (1999 & Supp. 2001).

A. Mississippi Solid Waste and Hazardous Waste Laws and Regulations

Producer Note: While most farmers and ranchers are not generators, transporters, or disposers of hazardous waste, it is important to check with state officials concerning the definitions of solid waste to determine whether an operation's activities could be regulated under state solid waste or hazardous waste statutes.

Mississippi's Solid Waste Disposal Law of 1974 can be found at Sections 17-17-1 through 17-17-507 of the Mississippi Code. Discharges from agricultural operations are included in the definition of solid waste in Mississippi.¹⁸⁶ Consequently, producers must be particularly observant of their discharges and comply with the requirements of this law. The Mississippi Department of Environmental Quality (DEQ) is charged with creating and enforcing rules and regulations regarding solid waste disposal.

Producer Note: Mississippi has a trust fund called the Local Governments Solid Waste Assistance Fund.¹⁸⁷ The fund receives monies from public and private sources including fees, taxes, grants, donations, judicial actions, and appropriations. Funds are used by the local governments to manage and remediate solid waste problems as well as educate the public. One-half of the money is available to counties on a formula basis; the other half is available to local governments (including regional solid waste authorities) on a competitive grant basis.

Producer Note: The Comprehensive Multimedia Waste Minimization Program is relatively new. Funds from the program may be used for a number of purposes including distribution of information on new technologies and procedures for minimizing waste, sponsoring and conducting workshops, facilitating the transfer of information, and providing funds to businesses, industries, academic institutions, private organizations, and governmental entities to conduct certain activities. Activities under these purposes may include demonstration and pilot programs, defrayment of costs related to basic and applied research, and subsidized costs for analyses and studies concerning waste minimization technologies and procedures.¹⁸⁸

¹⁸⁶ MISS. CODE ANN. § 17-17-3(v) (1995 & Supp. 2001).

¹⁸⁷ MISS. CODE ANN. § 17-17-65 (1995 & Supp. 2001).

¹⁸⁸ MISS. CODE ANN. § 49-31-11 (1999).

B. Mississippi Multimedia Pollution Prevention Act

Mississippi has several educational and cost-share programs available to reduce the cost of environmental compliance. The Mississippi legislature, in recognizing that inefficient and improper methods of managing waste create hazards to public health and cause pollution and waste of the state's natural resources, enacted the Multimedia Pollution Prevention Act (MPPA) to prevent pollution, reduce waste, and encourage recycling statewide.¹⁸⁹ The MPPA is a trust fund that supports various activities targeting the MPPA goals. The program is funded by a pollution prevention fee that is assessed upon the annual quantity of hazardous waste generated by all large and small generators that are regulated under hazardous waste management regulations and the Emergency Planning and Community Right-to-Know Act (EPCRA).¹⁹⁰

Activities that are funded primarily include:

- ! Distributing information on new technologies and procedures for minimizing waste through various methods including workshops;
- ! Providing funds to businesses, industries, academia, organizations, and governmental entities to conduct:
 - Demonstration programs;
 - Pilot programs;
 - Basic and applied research related to MPPA goals; and
 - Cost studies and analyses related to MPPA goals.

The audience of the MPPA is very broad, and programs on pollution prevention, reduction of waste, and recycling are applicable to some agricultural producer activities. Activities or projects that meet MPPA goals may be eligible for cost-share funding. However, the availability of funds may vary from year to year.

¹⁸⁹ MISS. CODE ANN. §§ 49-31-3 and -5 (1999).

¹⁹⁰ 42 U.S.C. §§ 11001 *et seq.* (1994).

V. PESTICIDES AND CHEMIGATION

Producer Note: The use of pesticides and other farm chemicals is regulated by federal and state statutes. Most states have some form of licensing or certification requirements controlling pesticide users. In addition, if a producer employs agricultural workers, there are regulations which address safety concerns about pesticide use around those workers and by those workers.

A. Mississippi Pesticide and Chemigation Laws and Regulations

Producer Note: Mississippi, like most states, has laws designed to control the use of pesticides. The laws are designed to closely monitor the distribution and ultimate use of these substances within the state.

Mississippi's pesticide law can be found in the Mississippi Pesticide Law of 1975 (MPL) and its amendments.¹⁹¹ All pesticides used in Mississippi, including many that are federally exempt, must be registered with the Mississippi Department of Agriculture and Commerce (MDAC).¹⁹² The law also provides for the licensing of dealers of restricted-use pesticides.¹⁹³ The term pesticide means any substance or mixture of substances intended to prevent, destroy, repel, mitigate, or attract any pests¹⁹⁴ and also includes substances intended to enhance the effectiveness of pesticides and those substances intended for use as a plant regulator, defoliant, or desiccant. Pesticides must be labeled¹⁹⁵ appropriately before being distributed, offered for sale, or sold.¹⁹⁶ Any pesticide which contains any substance or substances in quantities highly toxic to man must

¹⁹¹ MISS. CODE ANN. §§ 69-23-1 to 69-23-29 (2001).

¹⁹² MISS. CODE ANN. § 69-23-7 (2001). Please note that the commission is the Department of Agriculture and Commerce and its designates, and the commissioner is the Commissioner of Agriculture and Commerce of the State of Mississippi.

¹⁹³ MISS. CODE ANN. § 69-23-27 (2001).

¹⁹⁴ Pest means any insects, rodents, nematodes, fungi, weeds, or other forms of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living man or other living animals) which the MDAC declares to be a pest; *see* MISS. CODE ANN. § 69-23-3 (2001).

¹⁹⁵ Label means the written, printed, or graphic matter on or attached to the pesticide or the immediate container plus the outside container or wrapper of the retail package, if any; labeling means all labels and other written, printed or graphic matter; *see* MISS. CODE ANN. § 69-23-3 (2001).

¹⁹⁶ MISS. CODE ANN. § 69-23-5 (2001).

bear the skull and crossbones symbol with the word poison prominently stated¹⁹⁷ along with a statement of a practical treatment in case of accidental poisoning.¹⁹⁸

Pesticides are classified into two categories, restricted-use pesticides and general-use pesticides. The term restricted-use pesticide means any pesticide classified for restricted or limited use by the EPA or the MDAC.¹⁹⁹

In compliance with the MPL, the MDAC sets forth rules and regulations for selling, dispensing, storing, handling, and transporting pesticides including pesticides in bulk form. The MDAC has authority to enter onto any property during normal working hours to inspect all places where pesticides are kept for sale, distribution, use, or application²⁰⁰ and to seize any pesticide in Mississippi that is adulterated, misbranded, improperly registered, mislabeled, or improperly colored or tinted as required by the MPL.²⁰¹

Distributing, delivering, selling, or offering to sell a pesticide that is not properly registered in either intrastate or interstate commerce is unlawful.²⁰² Other pesticide prohibitions include:

- ! Colorless pesticides;
- ! Adulterated or misbranded pesticides;
- ! Pesticides that are unsafe due to container damage;
- ! Detachment, alteration, defacement, or destruction of a pesticide label or labeling;
- ! Disclosure of trade secrets or information marked as confidential by the pesticide registrant;
- ! Distribution of restricted-use pesticides except to those certified for its use;

¹⁹⁷ The word poison must be stated on the label in red on a background of a distinctly contrasting color; *see* MISS. CODE ANN. § 69-23-5 (2001).

¹⁹⁸ MISS. CODE ANN. § 69-23-5 (2001).

¹⁹⁹ MISS. CODE ANN. § 69-23-3 (2001).

²⁰⁰ MISS. CODE ANN. § 69-23-11 (2001).

²⁰¹ MISS. CODE ANN. § 69-23-21 (2001).

²⁰² This prohibition does not affect the transportation of refined petroleum naphtha or refined petroleum distillate if the amount involved is fifty gallons (50 gals.) or more if the product is accompanied by a statement properly identifying the product.

- ! Use of a pesticide in a manner that is inconsistent with its labeling or MDAC regulations; and
- ! Use of a pesticide, whether it be handling, transporting, storing, displaying, distributing, or disposing the pesticide or its container, in such a manner as to endanger man and his environment.²⁰³

Violators of the MPL or rules and regulations of the Bureau of Plant Industry (BPI) within the MDAC are subject to a civil penalty up to five thousand dollars (\$5,000.00) based on the severity or gravity and the type of violation.²⁰⁴

Violators of pesticide laws are subject to criminal penalties as well as civil penalties.^{205,206} For each day of violation, a violator of any the pesticide provisions is subject to a misdemeanor charge and:

- ! A fine up to one thousand dollars (\$1,000.00);
- ! Imprisonment up to one year (1 yr.); or
- ! Both.

However, if a violator's conduct causes harm or poses a threat to man, animals, or the environment,²⁰⁷ the criminal charge escalates to a felony charge and:

- ! A fine up to twenty-five thousand dollars (\$25,000.00);
- ! Imprisonment up to twenty years (20 yrs.); or
- ! Both.

Procedurally, complaints alleging violations are filed with the BPI. A copy of the complaint is sent to the accused, and upon receipt of the complaint, the accused has thirty days

²⁰³ MISS. CODE ANN. § 69-23-5 (2001).

²⁰⁴ MISS. CODE ANN. § 69-25-61 (2001).

²⁰⁵ MISS. CODE ANN. §§ 69-25-51 to -65 (2001).

²⁰⁶ Experimental use of pesticides is exempted from most regulations. If a producer wishes to use a pesticide experimentally, the producer must obtain a federal experimental use permit (EUP) because Mississippi did not seek approval from EPA to grant state issued EUP's; *see* MISS. CODE ANN. §§ 69-23-15, -23 (2001).

²⁰⁷ The term "unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

(30 da.) to respond or answer. The state entomologist acts as the reviewing officer (RO). The RO determines the merit of the complaint, and the RO may meet with the accused, recommend dismissal of the complaint, or recommend an appropriate penalty.

If a penalty is recommended, the accused has thirty days (30 da.) from its receipt to request a hearing or pay the penalty. If a hearing is requested, notification setting the time and place is sent to the accused at least fifteen (15) days in advance. Three members of the Bureau of Plant Industry advisory board become a hearing committee to hear the accused or his representative. A court reporter transcribes the proceedings of the hearing, and the testimony of any witnesses and evidence are presented under oath to create the record. At the conclusion of the hearing, the hearing committee makes its recommendation to the MDAC. The MDAC notifies the accused of the final decision. If a penalty has been recommended, the accused has forty-five days (45 da.) to pay. If the accused fails to pay any assessed penalty, the MDAC may file suit in circuit court to enforce the penalty and recover any attorney's fees and court costs. If the violation is determined to be a minor violation, a written notice of warning may be issued instead of an assessed penalty. The MDAC uses a rating matrix to guide appropriate penalties.

Appeals of the penalty are directed to the circuit court and must be litigated on the record below which was created at the agency hearing.

B. Mississippi Pesticide Applicator Certifications and Licenses

To govern those who use and apply pesticides, Mississippi has the Pesticide Application Law (PAL)²⁰⁸ and the Professional Services Act (PSA).²⁰⁹ The PAS requires that commercial applicators be licensed. A commercial applicator is one who applies any pesticide and charges a fee for such services. Commercial applicators who apply restricted-use pesticides must additionally be certified.

Private applicators who do not charge fees for services but apply restricted-use pesticides to produce an agricultural commodity must be certified by the MDAC.²¹⁰

The Mississippi State University Extension Service (MSUES) offers training for private applicators to become certified. This training is generally provided by the respective county agent at the local level. Self-study materials are also available for commercial certification. The BPI administers all license and certification tests. License exams and certification exams are given not fewer than once each calendar quarter. The application for the pesticide license must be submitted on a MDAC-provided form and requires information regarding the applicant's qualifications, proposed operations, and class of license desired, i.e., private or commercial.

²⁰⁸ MISS. CODE ANN. §§ 69-23-101 *et seq.* and § 69-19-5 (2001).

²⁰⁹ MISS. CODE ANN. § 69-19-9 (2001).

²¹⁰ MISS. CODE ANN. § 69-23-111 (2001).

To become a private certified pesticide applicator, one must attend a certification meeting, complete an application, and pass a certification test. Certification for commercial applicators requires the applicant to pass two examinations, not only the general standards exam but also an exam for each particular pesticide category for which they wish to use or apply (up to fourteen categories²¹¹). To satisfactorily complete a pesticide category certification, the MDAC requires each applicant to possess adequate knowledge with respect to the proper use and application of the pesticides in that particular category.²¹² The competency exam may be by written or oral examination. Once approved by the MDAC, the applicant is certified only in the category or classification for which he has successfully completed. Certificates are renewed every five (5) years if the applicator has passed a certification exam within the prior twelve (12) months.

Certified applicators must keep complete and accurate records of all pesticide applications for two years. The records are subject to inspection by MDAC agents during reasonable business hours. The records must include:

- ! Date and location of pesticide application;
- ! Pesticide name or brand;
- ! Registration number used;
- ! Crop or commodity treated;
- ! Amount of pesticide applied; and
- ! Area treated.

The MDAC has authority to deny, suspend, revoke, or modify pesticide application licenses and permits if the applicant or licensee:

- ! Makes false or fraudulent claims regarding the materials or methods used with the pesticides;
- ! Operates equipment in a faulty or negligent manner or knowingly operates faulty or unsafe equipment that causes damage to property or persons;

²¹¹ The fourteen (14) different pesticide categories are: agricultural pest control (plant); agricultural pest control (animal); forest pest control; ornamental and turf pest control; seed treatment; aquatic pest control; right-of-way pest control; industrial, institutional, structural and health related pest control; fumigation pest control; industrial weed control; public health pest control; regulatory (dealer); demonstration and research pest control, aerial application, wood preservation and wood treatment, anti-fouling paint, metam-sodium; certification for each category involves taking and satisfactorily completing a separate certification exam.

²¹² Knowledge tested may include pesticide safety, handling, storage, disposal, transportation, and applicable state and federal laws and regulations.

- ! Misrepresents any information in a pesticide application or renewal;
- ! Aids any person in evading provisions of the MPL or allows any uncertified person to use a certification or license;
- ! Is convicted of a labeling violation of restricted-use pesticide or a violation under FIFRA;²¹³ or
- ! Impersonates any state or federal official.²¹⁴

The MDAC has the authority to enter premises at reasonable times in order to inspect the premises and enforce sections of the PAL.²¹⁵ Violations of the PAL may subject the violator to a misdemeanor charge and:

- ! A fine up to one thousand dollars (\$1,000.00);
- ! Imprisonment up to one year (1 yr.); or
- ! Both.

Failure to cooperate with the MDAC inspection or enforcement may result in additional fines and imprisonment.

C. Mississippi Pesticide Dealers

Licensed pesticide dealers must keep complete and accurate records of all transactions for two years (2 yrs.) involving restricted-use pesticides including:

- ! Date, brand, and registration number of each pesticide received;
- ! Date, brand, registration number, and quantity of each pesticide sold;
- ! Name and address of purchaser;

²¹³ Federal Insecticide, Fungicide, and Rodenticide Act; 7 U.S.C. § 136 *et seq.* (1994).

²¹⁴ MISS. CODE ANN. § 69-23-115 (2001).

²¹⁵ MISS. CODE ANN. § 69-23-125 (2001).

- ! Name, address, and certification number of the applicator; and
- ! Receipt of any quantities returned to manufacturer or quantities damaged, lost, or stolen.²¹⁶

D. Mississippi Pesticide Consulting Licenses

The MDAC regulates the practice of any person engaged in business as a professional that solicits and accepts fees for providing professional services involving the application and/or recommendations of pesticides.²¹⁷ Although there is no fee for the required license, the MDAC may require satisfactory proof of insurance up to \$200,000 against negligence or careless provision of such services.²¹⁸ Penalties for violations of Mississippi’s statutory provisions on professional services involving pesticide use include misdemeanor charges plus a fine up to \$1,000.00, imprisonment up to one year, or both. Any violation that causes harm or poses a threat to man, animals, or the environment escalates the penalty to felony charges plus a fine up to \$25,000.00, imprisonment up to twenty years, or both.²¹⁹

VI. PROTECTION OF WILDLIFE

Producer Note: Agricultural producers have responsibilities concerning wildlife and migratory birds which may have habitat on the producer's property. Federal and state laws contain measures designed to protect or enhance wildlife and wildlife habitat.

A. Mississippi Wildlife Protection Laws and Regulations

Producer Note: Many states have additional laws and regulations which either enhance wildlife protections under federal laws or address issues peculiar to wildlife within the state. State laws and regulations may also address common problems caused by wildlife. Mississippi is one of those states that has state laws protecting wildlife.

Mississippi has extensive fish, game, and bird protection and refuge laws and regulations.²²⁰ Statutory provisions give the Commission on Wildlife Conservation (CWC) the

²¹⁶ Theft of restricted-use pesticides must be reported immediately to the Bureau of Plant Industry.

²¹⁷ MISS. CODE ANN. § 69-19-1 (2001).

²¹⁸ MISS. CODE ANN. § 69-19-9 (2001).

²¹⁹ MISS. CODE ANN. § 69-19-15 (2001).

²²⁰ See MISS. CODE ANN. §§ 49-5-1 through 49-5-141 (1999 & Supp. 2001).

authority to create and change laws and regulations that affect the state's wildlife.²²¹ The CWC has authority from the legislature to act in accordance with the Federal government with respect to wildlife restoration, fish restoration, and federal migratory bird refuges.²²²

Mississippi has also enacted an endangered species act of its own. It calls for both the management and the protection of wildlife. Mississippi is committed to managing the wildlife that it deems necessary to protect²²³ and, accordingly, has established a state list of endangered species that is managed much like the federal list. The prohibitions against removal, capture, destruction, and other such types of activities toward any endangered species are analogous to the federal act.²²⁴ The statutes set out penalties for violations which include both monetary fines and imprisonment.²²⁵

<p>Producer Note: Agricultural producers should be aware that their actions with respect to endangered species could expose them to both federal and state penalties. Producers should check with the Mississippi Game and Fish Commission to get a list of endangered species and a list of specially managed species in order to avoid potential liability.</p>
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VII. ENFORCEMENT OF STATE ENVIRONMENTAL LAWS

As with federal environmental laws, persons who violate the regulatory requirements of state environmental laws face substantial penalties. The specific penalties vary to some degree with each statute. However, they generally include both civil and criminal penalties. Additional fines can be assessed for each day that an operation remains in violation. For severe or repeated violations, imprisonment can be imposed. State agencies can also initiate proceedings, either in court or before an administrative tribunal, to enjoin a producer's activities and force compliance with the statute. In some cases, citizens may also file law suits to enforce the requirements of the environmental laws. As with the federal statutes, state laws afford producers the right to administrative and/or judicial review of agency decisions.

²²¹ MISS. CODE ANN. § 49-5-13 (1999 & Supp. 2001).

²²² MISS. CODE ANN. §§ 49-5-23 through 49-5-29 (1999 & Supp. 2001).

²²³ MISS. CODE ANN. § 49-5-107 (1999).

²²⁴ MISS. CODE ANN. § 49-5-111 (1999).

²²⁵ MISS. CODE ANN. § 49-5-115 (1999).

VIII. OTHER MISSISSIPPI STATUTES AFFECTING AGRICULTURE

A. Mississippi Farmland Preservation

1. Mississippi Zoning

Mississippi allows local county and city governments to regulate activities on land as long as the regulation promotes the health, safety, morals, or general welfare of the area. The regulated activities include:

- ! The height, number of stories, and size of buildings and other structures;
- ! The percentage of a lot that may be occupied;
- ! The minimum size of yards, courts, and other open spaces;
- ! The density of population;
- ! The location and use of buildings or structures; and
- ! The land use for commercial, industrial, residential, or other purposes.

Additionally, any county or city government has the authority to divide areas into zones to further the purpose of government business. However, a local government cannot regulate the zoning of agricultural lands concerning the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land.²²⁶

Local and county governments are prohibited from requiring permits with reference to land used for agricultural purposes or for the erection, maintenance, repair, or extension of farm buildings or farm structures outside the corporate limits of municipalities.²²⁷ Agricultural producers should note that a definition of land used for agricultural purposes is not included in the statute. Therefore, landowners should consult local authorities to determine the specific usage and criteria for that area.

2. Mississippi Conservation Easements

Conservation easements are used to retain or protect natural, scenic, historical, or open space values of real property. In order to retain and protect this type of property, conservation easements impose certain limitations or obligations on a landowner. The conservation easement is a non-possessory interest of a holder which may be conveyed, recorded, and assigned. Once a

²²⁶ MISS. CODE ANN. § 17-1-7 (1995 & Supp. 2001).

²²⁷ MISS. CODE ANN. § 17-1-3 (1995 & Supp. 2001).

conservation easement is created, it continues in the property even if the holder of the easement eventually becomes the fee simple²²⁸ landowner.²²⁹

An action to enforce the easement can be successfully brought by the following:

- ! The landowner of the land that is burdened by the easement;
- ! The holder of the easement;
- ! A person who has third-party enforcement rights;
- ! The Attorney General;
- ! The Mississippi Department of Wildlife, Fisheries and Parks; or
- ! Any other person authorized and empowered by law.²³⁰

The court has the continuous power to modify or terminate a conservation easement in accordance with general legal or equitable principles.²³¹ A conservation easement will be valid despite the following:

²²⁸ A fee simple is an estate where lands are limited to (owned by) a man and his heirs and assigns forever without limitation or condition. It is the largest estate and most extensive interest that can be enjoyed in land. An easement is a right of use of property of another. A conservation easement is a restriction upon the right to develop a property beyond its agricultural use and is most often established by specific wording. Once established, it then accompanies the legal description of the property.

²²⁹ MISS. CODE ANN. § 89-29-5 (1999).

²³⁰ MISS. CODE ANN. § 89-19-7(1) (1999 & Supp. 2001).

²³¹ MISS. CODE ANN. § 89-19-7(2) (1999 & Supp. 2001).

- ! If it is not appurtenant²³² to an interest in real property;
- ! If it may be or has been assigned to another holder;
- ! If it is not of a character that has been traditionally recognized at common law;
- ! If it imposes a negative burden;
- ! If it imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;
- ! If the benefit does not touch or concern real property; or
- ! If there is no privity²³³ of estate or contract.²³⁴

3. *Special Tax Advantages for Environmentally Conscious Practices in Mississippi*

There is an income tax deduction available for the amortization of pollution or environmental control facilities.²³⁵ The Mississippi CEQ must certify that the facility meets requirements pursuant to Mississippi law, e.g., a design such that it abates or controls noise, water pollution, or atmospheric pollution. The amortization period for these facilities is 60 months.²³⁶

B. Mississippi Nuisance and Right to Farm Laws

1. Mississippi Right to Farm

The Mississippi Right to Farm Act provides protection for agricultural operations that have been in operation for at least one year²³⁷ against both private and public nuisance law suits. If the operation has not changed since its inception, the operation enjoys an absolute defense to private and public nuisance actions. If the operation is later expanded, the date of the expanded

²³² Appurtenant means legally accompanying or adjacent or attached.

²³³ Privity means having an interest or relationship.

²³⁴ MISS. CODE ANN. § 89-19-9 (1999).

²³⁵ A certified pollution or environmental control facility means a new treatment facility used in connection with other property to abate or control noise, water, or atmospheric pollution or contamination and which has been certified by the CEQ; *see* MISS. CODE ANN. § 27-7-17(m) (1999 & Supp. 2001).

²³⁶ MISS. CODE ANN. § 27-7-17(m) (1999 & Supp. 2001).

²³⁷ MISS. CODE ANN. § 95-3-29 (1994 & Supp.).

operation marks the new date for establishment of the new operation. But, the new establishment date will not divest the operation of any prior established dates for the previous operations.²³⁸

The types of operations that are deemed agricultural according to Mississippi statutes include facilities used for commercial or industrial purposes for:

- ! Wood, timber, or forest products;
- ! Production and processing of crops;
- ! Livestock and livestock products;
- ! Poultry and poultry products; and
- ! Farm-raised fish and fish products.²³⁹

2. *Mississippi Farm Nuisance*

Mississippi uses the common law definition of nuisance. This means that by reviewing the decisions of Mississippi courts in similar lawsuits, a successful plaintiff in a case claiming nuisance against an agricultural producer would have to prove that the producer's use of the producer's property unreasonably interferes with the plaintiff's use and enjoyment of plaintiff's property.

C. **Mississippi Land Application and Management of Livestock Waste**

Land application of all manure, except dry litter, must be at least fifty feet (50') from the nearest adjoining property line and at least three hundred feet (300') from the nearest occupied dwelling not owned by the applicator of the manure.²⁴⁰ Land application of dry litter must be at least twenty-five feet (25') from the nearest adjoining property line and at least one hundred fifty feet (150') from the nearest occupied dwelling not owned by the applicator of dry litter.²⁴¹

The EQPB considers exceptions or variances to these buffer zone requirements for land application of manure. Timely and sufficient notice of requests for exceptions or variances must

²³⁸ MISS. CODE ANN. § 95-3-29 (1994 & Supp. 2001).

²³⁹ MISS. CODE ANN. § 95-3-29(2)(a) (1994 & Supp. 2001).

²⁴⁰ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS, CH. 1 § I(C)(2)(D)(2000).

²⁴¹ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS, CH. 1 § I(C)(2)(C)(2000).

be given to affected property owners within the buffer zones, and comments are reviewed by the EQPB. The EQPB may consider the following factors in determining an exception:

- ! The manure application methods including, but not limited to, subsurface injection and spray irrigation;
- ! Whether a person and/or facility has moved into a buffer zone previously approved by the EQPB; and
- ! All other factors the EQPB may deem appropriate.²⁴²

Generally speaking, best management practices (BMPs) are not addressed in any Mississippi statute although BMPs are addressed in DEQ regulations. In NPDES permits for animal waste, DEQ regulations call for the attainment of all BMPs to comply with effluent limitations of the permit.²⁴³ DEQ regulations also state that equivalent measures contained in a site specific Animal Waste Management Plan may be substituted for BMPs and the Pollution Prevention Plan required in the NPDES permit when the equivalent measures have been prepared by the NRCS and are referenced to the appropriate NRCS section. The livestock producer should follow DEQ regulations and guidelines in order to protect themselves regarding the land application of manure and manure storage.

D. Mississippi Dead Animal Disposal

Within twenty-four hours (24 hrs.) of the discovery of death, the owner of an animal dying from cholera or other such specified disease must quick lime the carcass and bury it at least two feet (2') underground or burn the carcass. The penalty for violation of these requirements may include misdemeanor charges.²⁴⁴

E. Mississippi Noxious Weeds

Mississippi prohibits two (2) classes of noxious weed seeds. The term weed seeds means the seeds, bulblets, or tubers of plants. These are:

²⁴² OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS, CH. 1 § I(C)(2)(C)(1995).

²⁴³ OFFICE OF POLLUTION CONTROL, MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY, WASTEWATER REGULATIONS, CH. 1 § IV(H)(2) (1995).

²⁴⁴ MISS. CODE ANN. § 97-27-3 (2000).

- ! Prohibited noxious weed seeds and
- ! Restricted noxious weed seeds.²⁴⁵

Prohibited weeds include field bindweed and hedge bindweed, crotalaria, nutgrass, and serrated tussock. Weeds may also be classified as prohibited if they constitute a peculiar hazard to Mississippi agriculture. Prohibited weeds reproduce by seed and spread by underground roots or stems and are highly destructive and are difficult to control even when using good cultural practices. The list of prohibited noxious weeds is published according to regulations set forth by MDAC.²⁴⁶

Restricted noxious weeds are particularly objectionable in fields, lawns, or gardens but can ordinarily be controlled by good cultural practices. The list of restricted noxious weeds seeds is also published according to MDAC regulations as authorized by Mississippi law.

²⁴⁵ MISS. CODE ANN. § 69-3-1 (2001).

²⁴⁶ MISS. CODE ANN. § 69-3-1 (2001).

Appendix A - Agencies

Producer Note: State agencies are available to answer questions regarding environmental matters and a producer's compliance with environmental laws and regulations. The following is a list of agencies in Mississippi which should be able to answer questions or provide materials for a producer.

State Agencies:

Board of Health

2423 North State Street or
P. O. Box 1700
Jackson, MS 39215-1700
(601) 960-7634
(601) 960-7931 fax

Department of Agriculture and Commerce

121 North Jefferson Street
Jackson, MS 39201
P.O. Box 1609
Jackson, MS 39215-1609
(601) 359-1100
(601) 354-6290 fax
<http://www.mdac.state.ms.us/>

Within MDAC:

Division of Feed, Seed, & Fertilizer

(601) 354-7072
(601) 354-6502 fax

Division of Meat Inspection

(601) 354-6581
(601) 354-6502 fax

Board of Animal Health

P. O. Box 3889
Jackson, MS 39207
(601) 359-1160
(601) 359-1177

Bureau of Plant Industry

P. O. Box 5207
Stone Boulevard
Mississippi State, MS 39762
(662) 325-7761
(662) 325-8397 fax

Bureau of Regulatory Services

(Same as MDAC above)
(601) 359-1111
(601) 359-1175 fax

Department of Environmental Quality

2380 Highway 80 West
101 Capitol Centre
Jackson, MS 39201 or
P.O. Box 20305
Jackson, MS 39289-0385
(601) 961-5171
(601) 961-5349 fax
<http://www.deq.state.ms.us/>
Mississippi Emergency Management Assistance
(800) 222-6362 toll free and
National Response
(800) 424-8802 toll free

Within DEQ:

Environmental Resource Center

Programs:
Air Quality
Hazardous Waste
Solid Waste Pollution Prevention
(601) 961-5666
(601) 961-5349 fax
Office of Administrative Services
Office of Geology

Office of Land & Water Resources

Programs:
Permitting and Monitoring
Water Resources
Well Water Drillers
(601) 961-5200
(601) 354-6938 fax

Office of Pollution Control

Programs:
Air
Environmental Permits Division
Groundwater
Hazardous
Surface Water
Underground Storage Tanks
(601) 961-5100
(601) 354-6612 fax

Department of Health

Public Water Supply Program
570 E. Woodrow Wilson Boulevard, Suite 241
Jackson, MS 39215
(601)576-7518
(601)576-7822 fax

Department of Marine Resources

1141 Bayview Avenue, Suite 101
Biloxi, MS 39530
(228) 374-5022
(228) 374-5005 fax
<http://www.dmr.state.ms.us/>

Department of Wildlife, Fisheries, & Parks

1505 Eastover Drive
Jackson, MS 39211-6374
(601) 432-2400
(601) 432-2024 fax
<http://www.mdwfp.com/>

Office of Attorney General

Carroll Gartin Justice Building
450 High Street
Jackson, MS 39201 or
P.O. Box 220
Jackson, MS 39205-0220
(601) 359-3680
(601) 359-3441 fax