

By: Senator(s) Hall (By Request)

To: Environment Prot,
Cons and Water Res

SENATE BILL NO. 2873

1 AN ACT TO REQUIRE FACILITIES REQUIRED TO FILE NOTIFICATION
2 UNDER SECTION 302 OR FILE REPORTS UNDER SECTION 312 OF THE FEDERAL
3 EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986, AS
4 AMENDED, TO DEVELOP AND IMPLEMENT AN ENVIRONMENTAL PREVENTION
5 MANAGEMENT SYSTEM BEFORE JANUARY 1, 2002; TO DEFINE CERTAIN TERMS;
6 TO REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO DEVELOP AND
7 PUBLISH GUIDANCE FOR THE DEVELOPMENT OF ENVIRONMENTAL PREVENTION
8 MANAGEMENT SYSTEMS; TO REQUIRE THE COMMISSION ON ENVIRONMENTAL
9 QUALITY TO DEVELOP REGULATIONS FOR IMPLEMENTATION OF THE PROGRAM;
10 TO PROVIDE THE PENALTIES; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 SECTION 1. This act shall be known as and may be cited as
13 the "Environmental Prevention Management System Act of 1999."

14 SECTION 2. The purpose of this act is to require the
15 development and implementation of an environmental prevention
16 management system at facilities required to file a notification
17 under Section 302 of the federal Emergency Planning and Community
18 Right-to-Know Act of 1986, as amended, and facilities required to
19 file reports under Section 312 of that act. The implementation
20 and development of this program will require effective emergency
21 response for accidental releases of any extremely hazardous
22 substance as defined under the act and any hazardous substance as
23 defined in accordance with the Comprehensive Environmental
24 Response, Compensation and Liability Act, as amended, to
25 significantly minimize any adverse potential impact to public
26 health and the environment.

27 SECTION 3. For purposes of this act, the following terms
28 shall have the meaning ascribed in this section unless the context
29 clearly indicates otherwise:

30 (a) "Commission" means the Mississippi Commission on

31 Environmental Quality.

32 (b) "Department" means the Mississippi Department of
33 Environmental Quality.

34 (c) "Environmental prevention management system" means
35 a documented proactive emergency planning and response strategy
36 consisting of, but not limited to, policies, procedures, records,
37 internal audits and management reviews which when fully
38 implemented will reduce and manage accidental releases of
39 hazardous substances or extremely hazardous substances so as to
40 minimize their impact to human health and the environment.

41 (d) "Facility" means any facility required to file
42 notification under Section 302 or reports under Section 312 of the
43 Emergency Planning and Community Right-to-Know Act of 1986, as
44 amended.

45 SECTION 4. Before January 1, 2002, each facility shall
46 develop and implement an environmental prevention management
47 system. The system shall at a minimum consist of a management
48 policy, an organization evaluation of the owner/operator of the
49 facility, documented procedures for emergency planning and
50 response, an inventory of hazardous substances and extremely
51 hazardous substances which are present at the facility, procedures
52 for training employees and updating that training periodically,
53 record keeping and reporting requirements, provisions for
54 internally auditing compliance with the system and other
55 information as the commission may require by regulation.

56 SECTION 5. (1) Before July 1, 2000, the commission shall
57 adopt regulations for the development and implementation of the
58 environmental prevention management system program.

59 (2) Before January 1, 2001, the department shall develop and
60 publish guidance for development of an environmental prevention
61 management system.

62 SECTION 6. (1) Any person found by the commission to have
63 violated this act or any rule or regulation or written order of

64 the commission issued under this act shall be subject to a civil
65 penalty of not more than Twenty-five Thousand Dollars (\$25,000.00)
66 for each violation. The penalty may be assessed and levied by
67 order of the commission after notice and hearing in accordance
68 with subsection (5) of this section.

69 (2) In lieu of, or in addition to, the penalty provided for
70 in subsection (1)(a) of this section, the commission may institute
71 and maintain in the name of the state any proceedings necessary to
72 enforce this act, rules and regulations adopted under this act,
73 and orders issued under this act in the appropriate circuit,
74 chancery, county or justice court of the county in which venue may
75 lie. The commission may obtain mandatory or prohibitory
76 injunctive relief, either temporary or permanent, and it shall not
77 be necessary in those cases that the state plead or prove: (a)
78 that irreparable damage would result if the injunction did not
79 issue; (b) that there is no adequate remedy at law; or (c) that a
80 written complaint or commission order has first been issued for
81 the alleged violation.

82 (3) Any person who knowingly submits false or inaccurate
83 information in support of an environmental prevention management
84 system under this act or who willfully violates this act, or any
85 rule, regulation or written order of the commission or emergency
86 order issued by the director in pursuance thereof shall, upon
87 conviction, be guilty of a misdemeanor and fined not less than One
88 Hundred Dollars (\$100.00) within the discretion of the court.
89 Each day in which that violation exists or continues shall
90 constitute a separate offense.

91 (4) In addition to or in lieu of filing a criminal
92 complaint for the willful misconduct described in subsection (3)
93 of this section, the commission may impose a civil penalty in
94 accordance with subsection (1)(a) of this section.

95 (5) All proceedings and hearing before the commission
96 regarding violations of this chapter or any rule or regulation,

97 written order of the commission, emergency order of the director
98 of certificate issued or reissued by the commission in pursuance
99 thereof and all appeals therefrom shall be conducted in accordance
100 with Section 49-17-31 through 49-17-41, Mississippi Code of 1972.

101 (6) All fines, penalties and other sums recovered or
102 collected by the commission for and on behalf of the state under
103 this section shall be deposited in the Pollution Emergency Fund
104 established under Section 49-17-68, Mississippi Code of 1972.

105 SECTION 2. This act shall take effect and be in force from
106 and after July 1, 1999.