

By: Representative Summers

To: Conservation and Water Resources

HOUSE BILL NO. 1486

1 AN ACT TO REQUIRE THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL
2 QUALITY TO ESTABLISH A LIST OF CERTAIN TOXIC AIR POLLUTANTS AND
3 CONTAMINANTS THAT MAY CAUSE THE PUBLIC, ESPECIALLY INFANTS AND
4 CHILDREN, TO BE SUSCEPTIBLE TO ILLNESS; TO REQUIRE THE DEPARTMENT
5 TO REVIEW AND REVISE ANY CONTROL MEASURES ADOPTED FOR THE TOXIC
6 AIR POLLUTANTS AND CONTAMINANTS IDENTIFIED ON SUCH LIST WITHIN TWO
7 YEARS OF THE ESTABLISHMENT OF THE LIST; TO REQUIRE THE DEPARTMENT
8 TO PREPARE A REPORT ON THE NEED FOR RULES OR REGULATIONS FOR UP TO
9 FIVE OF THOSE TOXIC AIR POLLUTANTS AND CONTAMINANTS FOR WHICH NO
10 CONTROL MEASURES HAVE BEEN PREVIOUSLY ADOPTED WITHIN THREE YEARS
11 OF THE ESTABLISHMENT OF SUCH LIST; TO REQUIRE THE DEPARTMENT TO
12 ADOPT WITHIN THAT SAME THREE-YEAR TIMEFRAME ANY NEW CONTROL
13 MEASURES TO REDUCE EXPOSURE TO THOSE TOXIC AIR POLLUTANTS AND
14 CONTAMINANTS TO PROTECT PUBLIC HEALTH, PARTICULARLY THE HEALTH OF
15 INFANTS AND CHILDREN; TO REQUIRE THE DEPARTMENT TO ANNUALLY
16 EVALUATE AT LEAST FIFTEEN TOXIC AIR POLLUTANTS AND CONTAMINANTS
17 IDENTIFIED OR DESIGNATED BY THE DEPARTMENT AND PROVIDE THRESHOLD
18 EXPOSURE LEVELS AND NON-THRESHOLD HEALTH VALUES FOR THOSE TOXIC
19 AIR POLLUTANTS AND CONTAMINANTS; TO REQUIRE THE DEPARTMENT TO
20 PREPARE A REPORT ON THE NEED FOR REGULATIONS FOR UP TO FIVE OF THE
21 TOXIC AIR POLLUTANTS AND CONTAMINANTS CONTAINED ON SUCH LIST FOR
22 WHICH NO CONTROL MEASURES HAVE BEEN PREVIOUSLY ADOPTED, OR FOR AT
23 LEAST FIVE OF THE TOXIC AIR POLLUTANTS AND CONTAMINANTS IF MORE
24 THAN FIVE TOXIC AIR POLLUTANTS AND CONTAMINANTS HAVE BEEN
25 IDENTIFIED; TO REQUIRE THE DEPARTMENT TO PROMULGATE RULES AND
26 REGULATIONS TO REDUCE EMISSIONS AND AIRBORNE LEVELS OF SUCH TOXIC
27 AIR POLLUTANTS AND CONTAMINANTS TO COMPLY WITH CERTAIN STANDARDS;
28 TO PROVIDE THAT THE DEPARTMENT SHALL, WITH THE PARTICIPATION OF,
29 AND IN CONSULTATION WITH, AFFECTED SOURCES, THE INTERESTED PUBLIC,
30 AND A DIVERSE GROUP OF EXPERTS, PREPARE A REPORT ON THE NEED AND
31 APPROPRIATE DEGREE OF REGULATION FOR EACH SUBSTANCE WHICH THE
32 DEPARTMENT HAS DETERMINED TO BE A TOXIC AIR POLLUTANT OR
33 CONTAMINANT; TO PROVIDE CERTAIN REQUIREMENTS FOR SUCH REPORT; TO
34 PROVIDE THAT SUCH REPORT AND RELEVANT COMMENTS RECEIVED DURING



35 CONSULTATION WITH AFFECTED SOURCES AND THE PUBLIC SHALL BE MADE
36 AVAILABLE FOR PUBLIC REVIEW AND COMMENT AT LEAST FORTY FIVE DAYS
37 PRIOR TO A PUBLIC HEARING; TO BRING FORWARD SECTIONS 49-2-31,
38 49-17-19, 49-17-21, 49-17-25, 49-17-27, 49-17-29, 49-17-31,
39 49-17-33, 49-17-34 AND 49-17-35, MISSISSIPPI CODE OF 1972, WHICH
40 RELATE TO RISK ASSESSMENT, AIR QUALITY STANDARDS, PUBLIC NOTICE OF
41 EMERGENCY, ADOPTION OF REGULATIONS AND PUBLIC HEARINGS, FOR
42 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

44 **SECTION 1.** (1) The Legislature finds and declares that
45 certain toxic air pollutants and contaminants may pose risks that
46 cause infants and children to be especially susceptible to
47 illness, and that certain actions are necessary to ensure their
48 safety from toxic air pollutants and contaminants.

49 (2) The Mississippi Department of Environmental Quality
50 (MDEQ) shall establish a list of up to five (5) toxic air
51 pollutants and contaminants that may cause the public, especially
52 infants and children, to be susceptible to illness. In developing
53 the list, the department shall take into account public exposures
54 to toxic air pollutants and contaminants, whether by themselves or
55 by interacting with other toxic air pollutants and contaminants.

56 (3) Within two (2) years of the establishment of the list
57 required under subsection (2) of this act, the department shall
58 review and, as appropriate, revise any control measures adopted
59 for the toxic air pollutants and contaminants identified on the
60 list, to reduce exposure to those toxic air pollutants and
61 contaminants, to protect public health, particularly the health of
62 infants and children.



63 (4) Within three (3) years of the establishment of the list
64 required under subsection (2) of this act, for up to five (5) of
65 those toxic air pollutants and contaminants for which no control
66 measures have been previously adopted, the department shall
67 prepare a report on the need for rules or regulations. The
68 department shall adopt within that same three-year timeframe, as
69 appropriate, any new control measures to reduce exposure to those
70 toxic air pollutants and contaminants to protect public health,
71 particularly the health of infants and children.

72 (5) The department shall annually evaluate at least fifteen
73 (15) toxic air pollutants and contaminants identified or
74 designated by the department, and provide threshold exposure
75 levels and non-threshold health values, as appropriate, for those
76 toxic air pollutants and contaminants. The activities required
77 under this subsection (5) shall continue until all toxic air
78 pollutants and contaminants are evaluated. Based on this
79 evaluation, the department shall update the list established under
80 subsection (2) of this act, by July 1, 2025, and each year
81 thereafter.

82 Within three (3) years of the initial or subsequent listing
83 update, for up to five (5) of the toxic air pollutants and
84 contaminants contained on that list for which no control measures
85 have been previously adopted, or for at least five (5) of the
86 toxic air contaminants if more than five (5) toxic air
87 contaminants have been identified, the department shall prepare a



88 report on the need for rules or regulations. The department shall
89 adopt within that three-year timeframe, as appropriate, new
90 control measures to reduce exposure to those toxic air pollutants
91 and contaminants to protect public health, and particularly the
92 health of infants and children.

93 (6) Toxic air pollutants and contaminants evaluated and
94 listed under this section shall not include substances in those
95 uses that are not subject to regulation by the department.

96 (7) The department shall promulgate rules and regulations to
97 reduce emissions and airborne levels of such toxic air pollutants
98 and contaminants evaluated and listed under this section to comply
99 with standards as provided in Section 49-17-19.

100 **SECTION 2.** (1) Following the department's determinations
101 and findings under Section 1 of this act, the executive officer of
102 the department shall, with the participation of, and in
103 consultation with, affected sources, the interested public, and a
104 diverse group of experts, as determined by the department, prepare
105 a report on the need and appropriate degree of regulation for each
106 substance which the department has determined to be a toxic air
107 pollutant or contaminant.

108 (2) The report shall address all of the following issues, to
109 the extent data can reasonably be made available:

110 (a) The rate and extent of present and anticipated
111 future emissions, the estimated levels of human exposure, and the
112 risks associated with those levels;



113 (b) Potential ways to increase communication and
114 transparency that alerts the public about violations and potential
115 negative health threats;

116 (c) The stability, persistence, transformation
117 products, dispersion potential, and other physical and chemical
118 characteristics of the substance when present in the ambient air;

119 (d) The categories, numbers, and relative contribution
120 of present or anticipated sources of the substance, including
121 mobile, industrial, agricultural, and natural sources;

122 (e) An evaluation of the adequacy of current air
123 quality monitoring systems, and the availability and technological
124 feasibility of airborne toxic control measures to reduce or
125 eliminate emissions, the anticipated effect of airborne toxic
126 control measures on levels of exposure, and the degree to which
127 proposed airborne toxic control measures are compatible with, or
128 applicable to, recent technological improvements or other actions
129 which emitting sources have implemented or taken in the recent
130 past to reduce emissions;

131 (f) The approximate cost of each airborne toxic control
132 measure, the magnitude of risks posed by the substances as
133 reflected by the amount of emissions from the source or category
134 of sources, and the reduction in risk which can be attributed to
135 each airborne toxic control measure;

136 (g) The availability, suitability, and relative
137 efficacy of substitute compounds of a less hazardous nature; and



138 (h) The potential adverse health, safety, or
139 environmental impacts that may occur as a result of implementation
140 of an airborne toxic control measure.

141 (2) The report, and relevant comments received during
142 consultation with affected sources and the public, shall be made
143 available for public review and comment at least forty five (45)
144 days prior to a public hearing as provided in Section 49-17-25.

145 **SECTION 3.** Section 49-2-31, Mississippi Code of 1972, is
146 brought forward as follows:

147 49-2-31. (1) Before July 1, 1995, the Department of
148 Environmental Quality shall complete a comparative risk assessment
149 that will include consideration of environmental risks to the
150 health and welfare of the citizens of Mississippi and to the
151 environment. The assessment also shall include an examination of
152 environmental factors, public health factors and socioeconomic
153 factors. The department shall provide for public participation in
154 the assessment process.

155 (2) The requirements of this section shall be contingent
156 upon the receipt of federal funds.

157 **SECTION 4.** Section 49-17-19, Mississippi Code of 1972, is
158 brought forward as follows:

159 49-17-19. In order to carry out the purposes of Sections
160 49-17-1 through 49-17-43, the commission may set ambient standards
161 of air and water quality for the state or portions thereof. Such
162 ambient standards of quality shall be such as to protect the



163 public health and welfare and the present and prospective future
164 use of such air and of such waters for public water supplies,
165 propagation of fish and aquatic life and wildlife, recreational
166 purposes, and agricultural, industrial and other legitimate uses.
167 Such ambient standards may be amended from time to time as
168 determined to be necessary by the commission. In order to carry
169 out the purposes of Sections 49-17-1 through 49-17-43, the
170 commission may also set emission standards for the purpose of
171 controlling air contamination, air pollution and the sources
172 thereof. In establishing ambient air quality standards for odor,
173 the commission shall adopt recognized objective standards if they
174 exist. In the absence of a recognized objective ambient air
175 quality standard for odor, the commission may adopt such
176 subjective standards as may be appropriate.

177 In establishing such standards relating to pesticides and
178 commercial fertilizers for underground water, the commission shall
179 adopt federal standards if they exist. If no federal standard
180 exists, the commission shall petition the United States
181 Environmental Protection Agency to establish a federal standard
182 for the substance of interest. If the commission determines that
183 a federal standard cannot be obtained within thirty (30) days, it
184 shall consult with the United States Environmental Protection
185 Agency's Office of Drinking Water and Office of Pesticide Programs
186 regarding the agency's conclusion relative to available
187 toxicological information on the substance of interest and on the



188 methodology used for establishing a federal standard. The
189 commission shall utilize this information and methodology to
190 establish a standard. The commission may also consult with and
191 request similar information from other sources.

192 **SECTION 5.** Section 49-17-21, Mississippi Code of 1972, is
193 brought forward as follows:

194 49-17-21. (a) The commission or its duly authorized
195 representative shall have the power to enter at reasonable times
196 upon any private or public property, and the owner, managing agent
197 or occupant of any such property shall permit such entry for the
198 purpose of inspecting and investigating conditions relating to
199 pollution or the possible pollution of any air or waters of the
200 state and to have access to such records as the commission may
201 require under subsection (b) of this section.

202 (b) The commission may require the maintenance of records
203 relating to the operation of air contamination sources or water
204 disposal systems, and any authorized representative of the
205 commission may examine and copy any such records or memoranda
206 pertaining to the operation of such air contamination source or
207 water disposal system. The records shall contain such information
208 as the commission may require. Copies of such records shall be
209 submitted to the commission upon request.

210 (c) The commission may conduct, authorize or require tests
211 and take samples of air contaminants or waste waters, fuel,
212 process material or other material which affects or may affect (1)



213 emission of air contaminants from any source, or (2) waste water
214 disposal systems. Upon request of the commission, the person
215 responsible for the source to be tested shall provide necessary
216 sampling ports in stacks or ducts and such other safe and proper
217 sampling and testing facilities as may be necessary for proper
218 determination of the emission of air contaminants. If an
219 authorized employee of the commission during the course of any
220 inspection obtains a sample of air contaminant, fuel, process
221 material or other material, he shall give the owner or operator of
222 the equipment or fuel facility a receipt for the sample obtained.

223 (d) The commission may require the installation, maintenance
224 and use of such monitoring equipment and methods at such locations
225 and intervals as the commission deems necessary.

226 **SECTION 6.** Section 49-17-25, Mississippi Code of 1972, is
227 brought forward as follows:

228 49-17-25. (1) Prior to the adoption, amendment or repeal of
229 rules and regulations necessary to implement this chapter,
230 Sections 17-17-1 through 17-17-47, Sections 21-27-201 through
231 21-27-221, Sections 37-138-1 through 37-138-31, and all other laws
232 administered by the department, the commission shall conduct a
233 public hearing or hearings thereon after public notice. Such
234 notice shall be given by publication once a week for three (3)
235 successive weeks in a newspaper having a general circulation
236 throughout the state. The notice shall contain a description of



237 the proposed regulation and the time, date and place of the
238 hearing.

239 (2) Additionally, the adoption, amendment or repeal of any
240 rule or regulation under this chapter, Sections 17-17-1 through
241 17-17-47, Sections 21-27-201 through 21-27-221, Sections 37-138-1
242 through 37-138-31 and all other laws administered by the
243 department shall be governed by the "Mississippi Administrative
244 Procedures Law." Any rule or regulation heretofore or hereafter
245 adopted, amended or repealed in substantial compliance with the
246 procedural requirements under Section 25-43-7 shall be valid. A
247 proceeding to contest any rule or regulation on the ground of
248 noncompliance with the procedural requirements of this section
249 must be commenced within one (1) year from the effective date of
250 the rule or regulation.

251 (3) Notice of rules and regulations adopted by the
252 commission shall be published once in a newspaper having general
253 circulation throughout the state.

254 **SECTION 7.** Section 49-17-27, Mississippi Code of 1972, is
255 brought forward as follows:

256 49-17-27. In the event an emergency is found to exist by the
257 commission, it may issue an emergency order as circumstances may
258 require. Said emergency order shall become operative at the time
259 and date designated therein and shall remain in force until
260 modified or cancelled by the commission or superseded by a regular
261 order of the commission or for a period of forty-five (45) days



262 from its effective date, whichever shall occur first, and may be
263 enforced by an injunction if necessary.

264 The chancery court shall always be deemed open for hearing
265 requests for injunctions to enforce such emergency orders and the
266 same shall have precedence over other matters.

267 When, in the opinion of the commission or its executive
268 director, an emergency situation exists which creates an imminent
269 and substantial endangerment threatening the public health and
270 safety or the lives and property of the people of this state,
271 notice shall be given immediately to local governing authorities,
272 both county and municipal, the state emergency management
273 organization, and the governor for appropriate action in
274 accordance with applicable laws for protections against disaster
275 situations.

276 **SECTION 8.** Section 49-17-29, Mississippi Code of 1972, is
277 brought forward as follows:

278 49-17-29. (1) (a) Except as in compliance with paragraph
279 (b) of this subsection, it is unlawful for any person to cause
280 pollution of the air in the state or to place or cause to be
281 placed any wastes or other products or substances in a location
282 where they are likely to cause pollution of the air. It is also
283 unlawful to discharge any wastes, products or substances into the
284 air of the state which exceed standards of performance, hazardous
285 air pollutant standards, other emission standards set by the
286 commission, or which reduce the quality of the air below the air



287 quality standards or increments established by the commission or
288 prevent attainment or maintenance of those air quality standards.
289 Any such action is hereby declared to be a public nuisance.

290 (b) It is unlawful for any person to build, erect,
291 alter, replace, use or operate any equipment which will cause the
292 issuance of air contaminants unless that person holds a permit
293 from the Permit Board (except repairs or maintenance of equipment
294 for which a permit has been previously issued), or unless that
295 person is exempted from holding a permit by a regulation
296 promulgated by the commission. Concentrated animal feeding
297 operations may be a source or a category of sources exempted under
298 this paragraph. However, no new or existing applications relating
299 to swine concentrated animal feeding operations within a county
300 shall be exempted from regulations and ordinances which have been
301 duly passed by the county's board of supervisors and which are in
302 force on June 1, 1998.

303 (2) (a) Except as in compliance with paragraph (b) of this
304 subsection, it is unlawful for any person to cause pollution of
305 any waters of the state or to place or cause to be placed any
306 wastes in a location where they are likely to cause pollution of
307 any waters of the state. It is also unlawful to discharge any
308 wastes into any waters of the state which reduce the quality of
309 those waters below the water quality standards established by the
310 commission; or to violate any applicable pretreatment standards or
311 limitations, technology-based effluent limitations, toxic



312 standards or any other limitations established by the commission.
313 Any such action is declared to be a public nuisance.

314 (b) It is unlawful for any person to carry on any of
315 the following activities, unless that person holds a current
316 permit for that activity from the Permit Board as may be required
317 for the disposal of all wastes which are or may be discharged into
318 the waters of the state, or unless that person is exempted from
319 holding a permit by a regulation promulgated by the commission:

320 (i) the construction, installation, modification or operation of
321 any disposal system or part thereof or any extension or addition
322 thereto, including, but not limited to, systems serving
323 agricultural operations; (ii) the increase in volume or strength
324 of any wastes in excess of the permissive discharges specified
325 under any existing permit; (iii) the construction, installation or
326 operation of any industrial, commercial or other establishment,
327 including irrigation projects or any extension or modification
328 thereof or addition thereto, the operation of which would cause an
329 increase in the discharge of wastes into the waters of the state
330 or would otherwise alter the physical, chemical or biological
331 properties of any waters of the state in any manner not already
332 lawfully authorized; (iv) the construction or use of any new
333 outlet for the discharge of any wastes into the waters of the
334 state. However, no new or existing applications relating to swine
335 concentrated animal feeding operations within a county shall be
336 exempted from regulations and ordinances which have been duly



337 passed by the county's board of supervisors and which are in force
338 on June 1, 1998.

339 (3) (a) Except as otherwise provided in this section, the
340 Permit Board created by Section 49-17-28 shall be the exclusive
341 administrative body to make decisions on permit issuance,
342 reissuance, denial, modification or revocation of air pollution
343 control and water pollution control permits and permits required
344 under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter
345 17), and all other permits within the jurisdiction of the Permit
346 Board. After consideration of alternative waste treatment
347 technologies available to control air and water pollution and
348 odor, including appropriate siting criteria, the commission may
349 promulgate regulations establishing conditions, limitations and
350 exemptions under which the Permit Board shall make these
351 decisions. Regulations promulgated by the commission which
352 establish exemptions as authorized under this section shall apply
353 to any applicable facility in operation on the effective date of
354 that regulation and to any applicable facility constructed or
355 operated after the effective date of that regulation. The Permit
356 Board may issue multiple permits for the same facility or
357 operation simultaneously or in the sequence that it deems
358 appropriate consistent with the commission's regulations. Except
359 as otherwise provided in this paragraph, the Permit Board, under
360 any conditions that the board may prescribe, may authorize the
361 Executive Director of the Department of Environmental Quality to



362 make decisions on permit issuance, reissuance, denial,
363 modification or revocation. The executive director shall not be
364 authorized to make decisions on permit issuance, reissuance,
365 denial, modification or revocation for a commercial hazardous
366 waste management facility or a solid waste management permit for a
367 municipal solid waste landfill or incinerator. A decision by the
368 executive director shall be a decision of the Permit Board and
369 shall be subject to formal hearing and appeal as provided in this
370 section. The executive director shall report all permit decisions
371 to the Permit Board at its next regularly scheduled meeting and
372 those decisions shall be recorded in the minutes of the Permit
373 Board. The decisions of the Permit Board shall be recorded in
374 minutes of the Permit Board and shall be kept separate and apart
375 from the minutes of the commission. The decision of the Permit
376 Board or the executive director to issue, reissue, deny, modify or
377 revoke permits shall not be construed to be an order or other
378 action of the commission.

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

385 (c) All persons required to obtain an air pollution
386 control or water pollution control permit, a permit under the



387 Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17) or any
388 other permit within the jurisdiction of the Permit Board shall
389 make application for that permit with the Permit Board. The
390 Permit Board, under any regulations as the commission may
391 prescribe, may require the submission of those plans,
392 specifications and other information as it deems necessary to
393 carry out Sections 49-17-1 through 49-17-43 and Title 17, Chapter
394 17, or to carry out the commission's regulations adopted under
395 those sections. The Permit Board, based upon any information as
396 it deems relevant, shall issue, reissue, deny, modify or revoke
397 air pollution control or water pollution control permit or permits
398 required under the Solid Wastes Disposal Law of 1974 (Title 17,
399 Chapter 17) or any other permit within the jurisdiction of the
400 Permit Board under any conditions as it deems necessary that are
401 consistent with the commission's regulations. The Permit Board's
402 action of issuance, reissuance, denial, modification or revocation
403 of a permit as recorded in its minutes shall constitute a complete
404 decision of the board. All permits issued by the Permit Board
405 shall remain in full force and effect until the board makes a
406 final determination regarding any reissuance, modification, or
407 revocation thereof. The Permit Board shall take action upon an
408 application within one hundred eighty (180) days following its
409 receipt in the board's principal office. No action which affects
410 revocation of an existing permit shall take effect until the
411 thirty (30) days mentioned in paragraph (4) (b) of this section has



412 expired or until a formal hearing as prescribed in that paragraph
413 is held, whichever is later.

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

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

426 (f) The Permit Board shall not issue any permit for a
427 new swine concentrated animal feeding operation or the expansion
428 of an existing swine concentrated animal feeding operation before
429 January 1, 2000, unless the department received the application
430 for that operation's new or modified permit before February 28,
431 1998, or except as provided in this paragraph (f). In issuing or
432 modifying any permit for which the department received an
433 application before February 28, 1998, the Permit Board shall apply
434 those siting criteria adopted or used by the commission before
435 February 28, 1998, unless federal law or regulations require more
436 stringent criteria. The moratorium established in this paragraph



437 shall not apply to the issuance of any permit for a new swine
438 concentrated animal feeding operation or the expansion of an
439 existing swine concentrated animal feeding operation that uses an
440 animal waste management system which the applicant demonstrates to
441 the Permit Board is innovative in significantly reducing the
442 effects of the operation on the public health, welfare or the
443 environment and which is approved by the Permit Board. The Permit
444 Board shall not issue or modify more than five (5) permits under
445 this innovative animal waste management system technology
446 exemption to the moratorium.

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

459 (4) (a) Except as required by this section, before the
460 issuance, reissuance, denial, modification or revocation of any
461 air pollution control or water pollution control permit, permit



462 required under the Solid Wastes Disposal Law of 1974 (Title 17,
463 Chapter 17) or any other permit within its jurisdiction, the
464 Permit Board, in its discretion, may hold a public hearing or
465 meeting to obtain comments from the public on its proposed action.
466 Before the issuance, reissuance, denial, modification pertaining
467 to the expansion of a facility, transfer or revocation of a permit
468 for a commercial hazardous waste management facility or a solid
469 waste management permit for a commercial municipal solid waste
470 landfill or incinerator, the Permit Board shall conduct a public
471 hearing or meeting to obtain comments from the public on the
472 proposed action. That hearing or meeting shall be informal in
473 nature and conducted under those procedures as the Permit Board
474 may deem appropriate consistent with the commission's regulations.

475 (b) Within thirty (30) days after the date the Permit
476 Board takes action upon permit issuance, reissuance, denial,
477 modification or revocation, as recorded in the minutes of the
478 Permit Board, any interested party aggrieved by that action may
479 file a written request for a formal hearing before the Permit
480 Board. An interested party is any person claiming an interest
481 relating to the property or project which is the subject of the
482 permit action, and who is so situated that the person may be
483 affected by the disposition of that action.

484 The Permit Board shall fix the time and place of the formal
485 hearing and shall notify the permittee of that time and place.



486 In conducting the formal hearing, the Permit Board shall have
487 the same full powers as to subpoenaing witnesses, administering
488 oaths, examining witnesses under oath and conducting the hearing,
489 as is now vested by law in the Mississippi Public Service
490 Commission, as to the hearings before it, with the additional
491 power that the Executive Director of the Permit Board may issue
492 all subpoenas at the instance of the Permit Board or at the
493 instance of any interested party. Any subpoenas shall be served
494 by any lawful officer in any county to whom the subpoena is
495 directed and return made thereon as provided by law, with the cost
496 of service being paid by the party on whose behalf the subpoena
497 was issued. Witnesses summoned to appear at the hearing shall be
498 entitled to the same per diem and mileage as witnesses attending
499 the circuit court and shall be paid by the person on whose behalf
500 the witness was called. Sufficient sureties for the cost of
501 service of the subpoena and witness fees shall be filed with the
502 Executive Director of the Permit Board at the time that issuance
503 of the subpoena is requested. At a hearing, any interested party
504 may present witnesses and submit evidence and cross-examine
505 witnesses.

506 The Permit Board may designate a hearing officer to conduct
507 the formal hearing on all or any part of the issues on behalf of
508 the Permit Board. The hearing officer shall prepare the record of
509 the formal hearing conducted by that officer for the Permit Board
510 and shall submit the record to the Permit Board.



511 Upon conclusion of the formal hearing, the Permit Board shall
512 enter in its minutes the board's decision affirming, modifying or
513 reversing its prior decision to issue, reissue, deny, modify or
514 revoke a permit. The Permit Board shall prepare and record in its
515 minutes findings of fact and conclusions of law supporting its
516 decision. That decision, as recorded in its minutes with its
517 findings of fact and conclusions of law, shall be final unless an
518 appeal, as provided in this section, is taken to chancery court
519 within twenty (20) days following the date the decision is entered
520 in the board's minutes.

521 (c) Within twenty (20) days after the date the Permit
522 Board takes action upon permit issuance, reissuance, denial,
523 modification or revocation after a formal hearing under this
524 subsection as recorded in the minutes of the Permit Board, any
525 person aggrieved of that action may appeal the action as provided
526 in subsection (5) of this section.

527 (5) (a) Appeals from any decision or action of the Permit
528 Board shall be only to chancery court as provided in this
529 subsection.

530 (b) Any person who is aggrieved by any decision of the
531 Permit Board issuing, reissuing, denying, revoking or modifying a
532 permit after a formal hearing may appeal that decision within the
533 period specified in subsection (4) (c) of this section to the
534 chancery court of the county of the situs in whole or in part of
535 the subject matter. The appellant shall give a cost bond with



536 sufficient sureties, payable to the state in the sum of not less
537 than One Hundred Dollars (\$100.00) nor more than Five Hundred
538 Dollars (\$500.00), to be fixed by the Permit Board and to be filed
539 with and approved by the Executive Director of the Permit Board,
540 who shall forthwith certify the filing of the bond together with a
541 certified copy of the record of the Permit Board in the matter to
542 the chancery court to which the appeal is taken, which shall
543 thereupon become the record of the cause. An appeal to the
544 chancery court as provided in this section shall not stay the
545 decision of the Permit Board. The aggrieved party may, within
546 twenty (20) days following the date the board's decision after a
547 formal hearing is entered on the board's minutes, petition the
548 chancery court for an appeal with supersedeas and the chancellor
549 shall grant a hearing on that petition. Upon good cause shown,
550 the chancellor may grant that appeal with supersedeas. If
551 granted, the appellant shall be required to post a bond with
552 sufficient sureties according to law in an amount to be determined
553 by the chancellor. Appeals shall be considered only upon the
554 record as made before the Permit Board. The chancery court shall
555 always be deemed open for hearing of an appeal and the chancellor
556 may hear the same in termtime or in vacation at any place in the
557 chancellor's district, and the appeal shall have precedence over
558 all civil cases, except election contests. The chancery court
559 shall review all questions of law and of fact. If no prejudicial
560 error is found, the matter shall be affirmed. If prejudicial



561 error is found the decision of the board shall be reversed and the
562 chancery court shall remand the matter to the Permit Board for
563 appropriate action as may be indicated or necessary under the
564 circumstances. Appeals may be taken from the chancery court to
565 the Supreme Court in the manner as now required by law, except
566 that if a supersedeas is desired by the party appealing to the
567 chancery court, that party may apply for a supersedeas to the
568 chancellor of that court, who shall award a writ of supersedeas,
569 without additional bond, if in the chancellor's judgment material
570 damage is not likely to result thereby; but otherwise, the
571 chancellor shall require a supersedeas bond as the chancellor
572 deems proper, which shall be liable to the state for any damage.

573 **SECTION 9.** Section 49-17-31, Mississippi Code of 1972, is
574 brought forward as follows:

575 49-17-31. (a) Whenever the commission or an employee
576 thereof has reason to believe that a violation of any provision of
577 Sections 49-17-1 through 49-17-43 or Sections 17-17-1 through
578 17-17-47 or a regulation or of any order of the commission or of
579 any limitation or condition of a valid permit has occurred, the
580 commission may cause a written complaint to be served upon the
581 alleged violator or violators. The complaint shall specify the
582 provisions of said sections or regulation or order or permit
583 alleged to be violated and the facts alleged to constitute a
584 violation thereof, and shall require that the alleged violator
585 appear before the commission at a time and place specified in the



586 notice and answer the charges complained of. Said time of
587 appearance before the commission shall be not less than ten (10)
588 days from the date of the service of the complaint.

589 (b) The commission shall afford an opportunity for a fair
590 hearing to the alleged violator or violators at the time and place
591 specified in the complaint. On the basis of the evidence produced
592 at the hearing, the commission shall make findings of fact and
593 conclusions of law and enter such order as in its opinion will
594 best further the purposes of Sections 49-17-1 through 49-17-43 and
595 Sections 17-17-1 through 17-17-47, and shall give written notice
596 of such order to the alleged violator and to such other persons as
597 shall have appeared at the hearing or made written request for
598 notice of the order, and the commission may assess such penalties
599 as hereinafter provided.

600 (c) Except as otherwise expressly provided, any notice, or
601 other instrument issued by or under authority of the commission
602 may be served on any person affected thereby personally or by
603 publication, and proof of such service may be made in like manner
604 as in case of service of a summons in a civil action, such proof
605 to be filed in the office of the commission; or such service may
606 be made by mailing a copy of the notice, order, or other
607 instrument by certified mail, directed to the person affected at
608 his last known post office address as shown by the files or
609 records of the commission, and proof thereof may be made by the



610 affidavit of the person who did the mailing, filed in the office
611 of the commission.

612 **SECTION 10.** Section 49-17-33, Mississippi Code of 1972, is
613 brought forward as follows:

614 49-17-33. The hearings herein provided may be conducted by
615 the commission itself at a regular or special meeting of the
616 commission, or the commission may designate a hearing officer, who
617 may be the executive director, who shall have the power and
618 authority to conduct such hearings in the name of the commission
619 at any time and place as conditions and circumstances may warrant.
620 The hearing officer shall have the record prepared of any hearing
621 which he has conducted for the commission. Such record shall be
622 submitted to the commission along with that hearing officer's
623 findings of fact and recommended decision. Upon receipt and
624 review of the record of the hearing and the hearing officer's
625 findings of fact and recommended decision, the commission shall
626 thereupon render its final decision in the matter. Any person
627 ordered to appear for an alleged violation shall have the right to
628 request a hearing before a majority of the commission if he
629 prefers and such a hearing may then be set for the next regular
630 meeting of the full commission, or specially. A verbatim record
631 of the proceedings of such hearings shall be taken and filed with
632 the commission, together with findings of fact and conclusions of
633 law made by the commission. Witnesses who are subpoenaed shall
634 receive the same fees and mileage as in civil actions. In case of



635 contumacy or refusal to obey a notice of hearing or subpoena
636 issued under this section, the circuit court shall have
637 jurisdiction, upon application of the commission or its
638 representative, to issue an order requiring such person to appear
639 and testify or produce evidence as the case may require and any
640 failure to obey such order of the court may be punished by such
641 court as contempt thereof. Failure to appear at any such hearing,
642 without prior authorization to do so from the commission or its
643 designee, may result in the commission finding the alleged
644 violator guilty of the charges complained of by default, and at
645 such time an order may be entered, including the assessment of a
646 penalty, which, in the opinion of the commission, will best
647 further the purposes of Section 17-17-1 et seq., and Section
648 49-17-1 et seq.

649 **SECTION 11.** Section 49-17-34, Mississippi Code of 1972, is
650 brought forward as follows:

651 49-17-34. (1) Within fifteen (15) days after receipt by the
652 Department of Environmental Quality an application for any initial
653 or modified air or water permit required under the Mississippi Air
654 and Water Pollution Control Law that is submitted after April 16,
655 1993, the Department of Environmental Quality shall acknowledge in
656 writing receipt of such application. Except for good cause shown,
657 within forty-five (45) days after receipt of a permit application,
658 the Department of Environmental Quality shall notify the applicant



659 that the application is complete or of the major components
660 required to complete the application.

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

674 (3) If there are no federal statutes or federal regulations,
675 standards, criteria or guidance that have been duly promulgated
676 pursuant to the federal Administrative Procedures Act addressing
677 matters relating to air quality or water quality, or air emission
678 or water discharge standards, the commission may promulgate
679 regulations to address these matters in accordance with the
680 Mississippi Administrative Procedures Act, when the commission
681 determines that such regulations are necessary to protect human
682 health, welfare or the environment.



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

696 **SECTION 12.** Section 49-17-35, Mississippi Code of 1972, is
697 brought forward as follows:

698 49-17-35. Any interested person shall have the right to
699 request the commission to call a hearing for the purpose of taking
700 action in respect to any matter within the jurisdiction of the
701 commission by making a request therefor in writing. Upon receipt
702 of any such request, the commission shall conduct such
703 investigations as it deems necessary and may call a special
704 hearing or may schedule such matter for its next regular meeting
705 or hearing day, and after such hearings and with all convenient
706 speed and in any event within thirty (30) days after the



707 conclusion of such hearing shall take such action on the subject
708 matter thereof as it may deem appropriate.

709 **SECTION 13.** This act shall take effect and be in force from
710 and after July 1, 2024.

