

By: Senator(s) DeLano

To: Environment Prot, Cons
and Water Res; Agriculture

SENATE BILL NO. 2629

1 AN ACT TO BRING FORWARD SECTIONS 1-3-31, 3-3-1, 11-33-9,
2 17-17-29, 21-17-1, 21-27-163, 21-27-203, 21-27-205, 21-27-217,
3 27-31-1, 27-55-53, 27-55-547, 27-55-559, 27-57-41, 27-65-22,
4 27-65-101, 29-7-3, 29-15-1, 33-15-1, 37-138-27, 41-67-2, 49-1-29,
5 49-2-13, 49-7-9, 49-7-9.1, 49-7-49, 49-7-80, 49-7-81, 49-7-153,
6 49-9-5, 49-9-7, 49-9-15, 49-15-1, 49-15-15, 49-15-17, 49-15-21,
7 49-15-27, 49-15-29, 49-15-34, 49-15-64.3, 49-15-46, 49-15-64.5,
8 49-15-47, 49-15-63, 49-15-75, 9-15-80, 49-15-81, 49-15-84.1,
9 49-15-86, 49-15-95, 49-15-100, 49-15-100.1, 49-15-100.3,
10 49-15-101, 49-15-309, 49-15-313, 49-17-1, 49-17-3, 49-17-5,
11 49-17-7, 49-17-13, 49-17-14, 49-17-16, 49-17-17, 49-17-19,
12 49-17-21, 49-17-22, 49-17-23, 49-17-25, 49-17-26, 49-17-27,
13 49-17-28, 49-17-29, 49-17-30, 49-17-31, 49-17-32, 49-17-33,
14 49-17-34, 49-17-35, 49-17-36, 49-17-37, 49-17-39, 49-17-41,
15 49-17-42, 49-17-43, 49-17-44, 49-17-44.1, 49-17-45, 49-17-61,
16 49-17-63, 49-17-65, 49-17-67, 49-17-68, 49-17-69, 49-17-70,
17 49-17-71, 49-17-73, 49-17-75, 49-17-77, 49-17-81, 49-17-83,
18 49-17-85, 49-17-86, 49-17-87, 49-17-89, 49-17-101, 49-17-103,
19 49-17-105, 49-17-107, 49-17-108, 49-17-109, 49-17-111, 49-17-113,
20 49-17-115, 49-17-117, 49-17-119, 49-17-121, 49-17-123, 49-17-401,
21 49-17-403, 49-17-405, 49-17-407, 49-17-409, 49-17-411, 49-17-413,
22 49-17-415, 49-17-419, 49-17-421, 49-17-422, 49-17-423, 49-17-425,
23 49-17-427, 49-17-429, 49-17-431, 49-17-433, 49-17-435, 49-17-501,
24 49-17-503, 49-17-505, 49-17-507, 49-17-509, 49-17-511, 49-17-513,
25 49-17-515, 49-17-516, 49-17-517, 49-17-518, 49-17-519, 49-17-521,
26 49-17-523, 49-17-525, 49-17-527, 49-17-529, 49-17-531, 49-17-601,
27 49-17-603, 49-17-701, 49-17-703, 49-17-705, 49-17-707, 49-17-709,
28 49-17-711, 49-17-713, 49-17-717, 49-17-719, 49-17-721, 49-17-723,
29 49-17-725, 49-17-727, 49-17-729, 49-17-731, 49-17-733, 49-17-735,
30 49-17-737, 49-17-739, 49-17-741, 49-17-743, 49-17-745, 49-17-747,
31 49-17-749, 49-17-751, 49-17-753, 49-17-755, 49-17-757, 49-17-759,
32 49-17-761, 49-17-763, 49-17-765, 49-17-767, 49-17-769, 49-17-771,
33 49-17-773, 49-17-775, 49-27-71, 49-35-23, 51-1-1, 51-3-1, 51-3-7,
34 51-1-4, 51-2-3, 51-3-13, 51-3-21, 51-3-39, 51-4-7, 51-9-5,



35 51-9-103, 51-9-121, 51-13-101, 51-35-303, 53-3-71, 53-3-165,
36 53-7-35, 53-11-3, 55-7-1, 55-7-15, 57-15-1, 59-21-3, 59-21-5,
37 59-21-25, 59-21-51, 59-21-81, 59-21-83, 59-21-87, 59-21-89,
38 59-21-111, 59-21-117, 59-21-119, 59-21-129, 59-21-161, 59-23-7,
39 59-25-3, 61-3-15, 61-21-3, 69-27-3, 71-3-5, 79-21-5, 79-21-53,
40 89-17-9, 89-17-25, 97-15-30 AND 97-35-21, MISSISSIPPI CODE OF
41 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED
42 PURPOSES.

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

44 **SECTION 1.** Section 1-3-31, Mississippi Code of 1972, is
45 brought forward as follows:

46 1-3-31. Except as otherwise provided in Section 27-109-1,
47 all rivers, creeks and bayous in this state, twenty-five (25)
48 miles in length, and having sufficient depth and width of water
49 for thirty (30) consecutive days in the year to float a steamboat
50 with carrying capacity of two hundred (200) bales of cotton, are
51 navigable waters of this state and public highways.

52 **SECTION 2.** Section 3-3-1, Mississippi Code of 1972, is
53 brought forward as follows:

54 3-3-1. The limits and boundaries of the territorial waters
55 of the State of Mississippi shall consist of all territory
56 included within the boundaries described in the act of Congress of
57 March 1, 1817, together with all territory ceded to the State of
58 Mississippi by later acts of Congress or by compacts or agreements
59 with other states, as such territory and boundaries may have been
60 or may be modified by the United States Supreme Court which
61 extends three (3) miles of Cat Island, Ship Island, Horn Island
62 and Petit Bois Island off shore to three (3) Marine Leagues.



63 **SECTION 3.** Section 11-33-9, Mississippi Code of 1972, is
64 brought forward as follows:

65 11-33-9. The creditor, his agent or attorney, shall make
66 oath before a judge of the supreme court, a judge of a circuit
67 court, or a chancellor, or before a clerk of the circuit court or
68 chancery court or the deputy of such clerk, or any justice court
69 judge, or the mayor of any city, town or village, of the amount of
70 his debt or demand, to the best of his knowledge and belief, and
71 shall also make oath, to the best of his knowledge and belief, to
72 one or more of the following grounds for attachment:

73 (1) That the defendant is a foreign corporation, or a
74 nonresident of this state; or

75 (2) That he has removed, or is about to remove, himself or
76 his property out of this state; or

77 (3) That he so absconds or conceals himself that he cannot
78 be served with a summons; or

79 (4) That he contracted the debt or incurred the obligation
80 in conducting the business of a ship, steamboat or other
81 watercraft in some of the navigable waters of this state; or

82 (5) That he has property or rights in action which he
83 conceals, and unjustly refuses to apply to the payment of his
84 debts; or

85 (6) That he has assigned or disposed of, or is about to
86 assign or dispose of, his property or rights in action, or some
87 part thereof, with the intent to defraud his creditors; or



88 (7) That he has converted, or is about to convert, his
89 property into money or evidences of debt, with intent to place it
90 beyond the reach of his creditors; or

91 (8) That he fraudulently contracted the debt or incurred the
92 obligation for which suit has been or is about to be brought; or

93 (9) That he is buying, selling, or dealing in, or has,
94 within six (6) months next before the suing out of the attachment,
95 directly or indirectly bought, sold, or dealt in future contracts,
96 commonly called "futures"; or

97 (10) That he is in default for public money, due from him as
98 a principal, to the state, or some county, city, town, or village
99 thereof; or

100 (11) That defendant is a banker, banking company or
101 corporation, and received deposits of money knowing at the time he
102 or it was insolvent; or has made or published a false or
103 fraudulent statement as to his or its financial condition; or

104 (12) That a judgment lien under Title 93, Mississippi Code
105 of 1972, has been enrolled against said obligor for nonpayment of
106 an order for support as defined by Section 93-11-101, Mississippi
107 Code of 1972, as amended.

108 **SECTION 4.** Section 17-17-29, Mississippi Code of 1972, is
109 brought forward as follows:

110 17-17-29. (1) Any person found by the commission violating
111 any of the provisions of Sections 17-17-1 through 17-17-47, or any
112 rule or regulation or written order of the commission in pursuance



113 thereof, or any condition or limitation of a permit, shall be
114 subject to a civil penalty of not more than Twenty-five Thousand
115 Dollars (\$25,000.00) for each violation, such penalty to be
116 assessed and levied by the commission after a hearing. Appeals
117 from the imposition of the civil penalty may be taken to the
118 chancery court in the same manner as appeals from orders of the
119 commission. If the appellant desires to stay the execution of a
120 civil penalty assessed by the commission, he shall give bond with
121 sufficient resident sureties of one or more guaranty or surety
122 companies authorized to do business in this state, payable to the
123 State of Mississippi, in an amount equal to double the amount of
124 any civil penalty assessed by the commission, as to which the stay
125 of execution is desired, conditioned, if the judgment shall be
126 affirmed, to pay all costs of the assessment entered against the
127 appellant. Each day upon which such violation occurs shall be
128 deemed a separate and additional violation.

129 (2) In lieu of, or in addition to, the penalty provided in
130 subsection (1) of this section, the commission shall have the
131 power to institute and maintain in the name of the state any and
132 all proceedings necessary or appropriate to enforce the provisions
133 of Sections 17-17-1 through 17-17-47, rules and regulations in
134 force pursuant thereto, and orders and permits made and issued
135 under those sections, in the appropriate circuit, chancery, county
136 or justice court of the county in which venue may lie. The
137 commission may obtain mandatory or prohibitory injunctive relief,



138 either temporary or permanent, and in cases of imminent and
139 substantial hazard as set forth in Section 17-17-27, it shall not
140 be necessary in such cases that the state plead or prove (a) that
141 irreparable damage would result if the injunction did not issue;
142 (b) that there is no adequate remedy at law; or (c) that a written
143 complaint or commission order has first been issued for the
144 alleged violation.

145 (3) Any person who violates any of the provisions of, or
146 fails to perform any duty imposed by, Sections 17-17-1 through
147 17-17-47, or any rule or regulation issued hereunder, or who
148 violates any order or determination of the commission promulgated
149 pursuant to such sections, and causes the death of wildlife shall
150 be liable, in addition to the penalties provided in subsections
151 (1) and (2) of this section, to pay to the state an additional
152 amount equal to the sum of money reasonably necessary to replenish
153 such wildlife as determined by the commission after consultation
154 with the Mississippi Commission on Wildlife, Fisheries and Parks.
155 Such amount may be recovered by the commission on behalf of the
156 state in a civil action brought in the appropriate county or
157 circuit court of the county in which venue may lie.

158 (4) Any person creating, or responsible for creating,
159 through misadventure, happenstance, or otherwise, an immediate
160 necessity for remedial or clean-up action involving solid waste
161 shall be liable for the cost of such remedial or clean-up action
162 and the commission may recover the cost of same by a civil action



163 brought in the circuit court of the county in which venue may lie.
164 This penalty may be recovered in lieu of or in addition to the
165 penalties provided in subsections (1), (2) and (3) of this
166 section.

167 In the event of the necessity for immediate remedial or
168 clean-up action, the commission may contract for same and advance
169 funds from the Pollution Emergency Fund to pay the costs thereof,
170 such advancements to be repaid to the Pollution Emergency Fund
171 upon recovery by the commission as provided herein.

172 (5) Any person who knowingly violates any provision of this
173 chapter or violates any order issued by the commission under the
174 authority of this chapter shall, upon conviction, be guilty of a
175 misdemeanor and shall be subject to a fine of not more than
176 Twenty-five Thousand Dollars (\$25,000.00) for each day of
177 violation or to imprisonment not to exceed one (1) year, or both.
178 Each day's violation shall constitute a separate offense.

179 (6) All fines, penalties and other sums recovered or
180 collected by the commission for and in behalf of the state under
181 this section shall be deposited in the Pollution Emergency Fund
182 established by Sections 49-17-61 through 49-17-70, and the
183 commission is authorized to receive and accept, from any and all
184 available sources whatsoever, additional funds to be deposited in
185 such fund and expended for the purpose of remedial, cleanup or
186 abatement actions involving the introduction of solid waste upon
187 or into the land, air or waters of this state in violation of



188 Sections 17-17-1 through 17-17-47, any rule or regulation or
189 written order of the commission in pursuance thereof, or any
190 condition or limitation of a permit.

191 (7) In determining the amount of any penalty under this
192 chapter, the commission shall consider at a minimum:

193 (a) The willfulness of the violation;

194 (b) Any damage to air, water, land or other natural
195 resources of the state or their uses;

196 (c) Costs of restoration and abatement;

197 (d) Economic benefit as a result of noncompliance;

198 (e) The seriousness of the violation, including any
199 harm to the environment and any hazard to the health, safety and
200 welfare of the public;

201 (f) Past performance history; and

202 (g) Whether the noncompliance was discovered and
203 reported as the result of a voluntary self-evaluation. If a
204 person discovers as a result of a voluntary self-evaluation,
205 information related to noncompliance with an environmental law and
206 voluntarily discloses that information to the department,
207 commission or any employee thereof, the commission shall, to the
208 greatest extent possible, reduce a penalty, if any, determined by
209 the commission, except for economic benefit as a result of
210 noncompliance, to a de minimis amount if all of the following are
211 true:



212 (i) The disclosure is made promptly after
213 knowledge of the information disclosed is obtained by the person;

214 (ii) The person making the disclosure initiates
215 the appropriate corrective actions and pursues those corrective
216 actions with due diligence;

217 (iii) The person making the disclosure cooperates
218 with the commission and the department regarding investigation of
219 the issues identified in the disclosure;

220 (iv) The person is not otherwise required by an
221 environmental law to make the disclosure to the commission or the
222 department;

223 (v) The information was not obtained through any
224 source independent of the voluntary self-evaluation or by the
225 department through observation, sampling or monitoring;

226 (vi) The noncompliance did not result in a
227 substantial endangerment threatening the public health, safety or
228 welfare or the environment; and

229 (vii) The noncompliance is not a repeat violation
230 occurring at the same facility within a period of three (3) years.
231 "Repeat violation" in this subparagraph means a second or
232 subsequent violation, after the first violation has ceased, of the
233 same statutory provision, regulation, permit condition, or
234 condition in an order of the commission.

235 (9) Any provision of this section and chapter regarding
236 liability for the costs of cleanup, removal, remediation or



237 abatement of any pollution, hazardous waste or solid waste shall
238 be limited as provided in Section 49-17-42 and rules adopted
239 thereto.

240 (10) Any person who violates Section 49-17-603, shall, in
241 addition to any other penalties, be subject to the penalties
242 provided in this section.

243 **SECTION 5.** Section 21-17-1, Mississippi Code of 1972, is
244 brought forward as follows:

245 21-17-1. (1) Every municipality of this state shall be a
246 municipal corporation and shall have power to sue and be sued; to
247 purchase and hold real estate, either within or without the
248 corporate limits, for all proper municipal purposes, including
249 parks, cemeteries, hospitals, schoolhouses, houses of correction,
250 waterworks, electric lights, sewers and other proper municipal
251 purposes; to purchase and hold personal property for all proper
252 municipal purposes; to sell or dispose of personal property or
253 real property owned by it consistent with Section 17-25-25; to
254 acquire equipment and machinery by lease-purchase agreement and to
255 pay interest thereon, if contracted, when needed for proper
256 municipal purposes; and to sell and convey any real property owned
257 by it, and make such order respecting the same as may be deemed
258 conducive to the best interest of the municipality, and exercise
259 jurisdiction over the same.

260 (2) (a) In case any of the real property belonging to a
261 municipality shall cease to be used for municipal purposes, the



262 governing authority of the municipality may sell, convey or lease
263 the same on such terms as the municipal authority may elect. In
264 case of a sale on a credit, the municipality shall charge
265 appropriate interest as contracted and shall have a lien on the
266 same for the purchase money, as against all persons, until paid
267 and may enforce the lien as in such cases provided by law. The
268 deed of conveyance in such cases shall be executed in the name of
269 the municipality by the governing authority of the municipality
270 pursuant to an order entered on the minutes. In any sale or
271 conveyance of real property, the municipality shall retain all
272 mineral rights that it owns, together with the right of ingress
273 and egress to remove same. Except as otherwise provided in this
274 section, before any such lease, deed or conveyance is executed,
275 the governing authority of the municipality shall publish at least
276 once each week for three (3) consecutive weeks, in a public
277 newspaper of the municipality in which the real property is
278 located, or if no newspaper be published as such, then in a
279 newspaper having general circulation therein, the intention to
280 lease or sell, as the case may be, the municipally owned real
281 property and to accept sealed competitive bids for the leasing or
282 sale. The governing authority of the municipality shall
283 thereafter accept bids for the lease or sale and shall award the
284 lease or sale to the highest bidder in the manner provided by law.
285 However, whenever the governing authority of the municipality
286 shall find and determine, by resolution duly and lawfully adopted



287 and spread upon its minutes (i) that any municipally owned real
288 property is no longer needed for municipal or related purposes and
289 is not to be used in the operation of the municipality, (ii) that
290 the sale of such property in the manner otherwise provided by law
291 is not necessary or desirable for the financial welfare of the
292 municipality, and (iii) that the use of such property for the
293 purpose for which it is to be sold, conveyed or leased will
294 promote and foster the development and improvement of the
295 community in which it is located and the civic, social,
296 educational, cultural, moral, economic or industrial welfare
297 thereof, the governing authority of the municipality shall be
298 authorized and empowered, in its discretion, to sell, convey or
299 lease same for any of the purposes set forth herein without having
300 to advertise for and accept competitive bids.

301 (b) In any case in which a municipality proposes to
302 sell, convey or lease real property under the provisions of this
303 subsection (2) without advertising for and accepting competitive
304 bids, the governing authority may sell, convey or lease the
305 property as follows:

306 (i) Consideration for the purchase, conveyance or
307 lease of the property shall be not less than the average of the
308 fair market price for such property as determined by at least two
309 (2) professional property appraisers selected by the municipality
310 and approved by the purchaser or lessee. Appraisal fees shall be
311 shared equally by the municipality and the purchaser or lessee;



312 (ii) The governing authority of a municipality may
313 contract for the professional services of a Mississippi licensed
314 real estate broker to assist the municipality in the marketing and
315 sale or lease of the property, and may provide the broker
316 reasonable compensation for services rendered to be paid from the
317 sale or lease proceeds. The reasonable compensation shall not
318 exceed the usual and customary compensation for similar services
319 within the municipality; or

320 (iii) The governing authority of a municipality
321 may lease property of less than one thousand five hundred (1,500)
322 square feet to any person or legal entity by having two (2)
323 appraisals establish the fair market value of the lease, and on
324 such other terms and conditions as the parties may agree, such
325 lease being lawfully adopted and spread upon its official minutes.

326 (3) Whenever the governing authority of the municipality
327 shall find and determine by resolution duly and lawfully adopted
328 and spread upon the minutes that municipally owned real property
329 is not used for municipal purposes and therefore surplus as set
330 forth in subsection (2) of this section:

331 (a) (i) Except as otherwise provided in subparagraph
332 (ii) of this paragraph (a), the governing authority may donate
333 such lands to a bona fide not-for-profit civic or eleemosynary
334 corporation organized and existing under the laws of the State of
335 Mississippi and granted tax-exempt status by the Internal Revenue
336 Service and may donate such lands and necessary funds related



337 thereto to the public school district in which the land is
338 situated for the purposes set forth herein. Any deed or
339 conveyance executed pursuant hereto shall contain a clause of
340 reverter providing that the bona fide not-for-profit corporation
341 or public school district may hold title to such lands only so
342 long as they are continued to be used for the civic, social,
343 educational, cultural, moral, economic or industrial welfare of
344 the community, and that title shall revert to the municipality in
345 the event of the cessation of such use for a period of two (2)
346 years. In any such deed or conveyance, the municipality shall
347 retain all mineral rights that it owns, together with the right of
348 ingress and egress to remove same;

349 (ii) If the governing authority of a municipality
350 with a total population of greater than forty thousand (40,000)
351 but not more than forty-two thousand five hundred (42,500)
352 according to the 2010 federal decennial census, donates real
353 property to a bona fide not-for-profit civic or eleemosynary
354 corporation and such civic or eleemosynary corporation commits Two
355 Million Dollars (\$2,000,000.00) to renovate or make capital
356 improvements to the property by an agreement between a certain
357 state institution of higher learning and the civic or eleemosynary
358 corporation, then the clause of reverter required by this
359 paragraph shall provide that title of such real property shall
360 revert 1. to the bona fide not-for-profit civic or eleemosynary
361 corporation, if a certain state institution of higher learning



362 ceases to use the property for the purposes required by this
363 paragraph (a) for donated lands, or 2. to the municipality, if a
364 certain state institution of higher learning ceases to use the
365 property for the purposes required by this paragraph (a) and the
366 not-for-profit civic or eleemosynary corporation or its successor
367 ceases to exist;

368 (b) (i) The governing authority may donate such lands
369 to a bona fide not-for-profit corporation (such as Habitat for
370 Humanity) which is primarily engaged in the construction of
371 housing for persons who otherwise can afford to live only in
372 substandard housing. In any such deed or conveyance, the
373 municipality shall retain all mineral rights that it owns,
374 together with the right of ingress and egress to remove same;

375 (ii) In the event the governing authority does not
376 wish to donate title to such lands to the bona fide not-for-profit
377 civic or eleemosynary corporation, but wishes to retain title to
378 the lands, the governing authority may lease the lands to a bona
379 fide not-for-profit corporation described in paragraph (a) or this
380 paragraph (b) for less than fair market value;

381 (c) The governing authority may donate any municipally
382 owned lot measuring twenty-five (25) feet or less along the
383 frontage line as follows: the governing authority may cause the
384 lot to be divided in half along a line running generally
385 perpendicular to the frontage line and may convey each one-half
386 (1/2) of that lot to the owners of the parcels laterally adjoining



387 the municipally owned lot. All costs associated with a conveyance
388 under this paragraph (c) shall be paid by the person or entity to
389 whom the conveyance is made. In any such deed or instrument of
390 conveyance, the municipality shall retain all mineral rights that
391 it owns, together with the right of ingress and egress to remove
392 same;

393 (d) Nothing contained in this subsection (3) shall be
394 construed to prohibit, restrict or to prescribe conditions with
395 regard to the authority granted under Section 17-25-3.

396 (4) Every municipality shall also be authorized and
397 empowered to loan to private persons or entities, whether
398 organized for profit or nonprofit, funds received from the United
399 States Department of Housing and Urban Development (HUD) under an
400 urban development action grant or a community development block
401 grant under the Housing and Community Development Act of 1974
402 (Public Law 93-383), as amended, and to charge interest thereon if
403 contracted, provided that no such loan shall include any funds
404 from any revenues other than the funds from the United States
405 Department of Housing and Urban Development; to make all contracts
406 and do all other acts in relation to the property and affairs of
407 the municipality necessary to the exercise of its governmental,
408 corporate and administrative powers; and to exercise such other or
409 further powers as are otherwise conferred by law.

410 (5) (a) The governing authority of any municipality may
411 establish an employer-assisted housing program to provide funds to



412 eligible employees to be used toward the purchase of a home. This
413 assistance may be applied toward the down payment, closing costs
414 or any other fees or costs associated with the purchase of a home.
415 The housing assistance may be in the form of a grant, forgivable
416 loan or repayable loan. The governing authority of a municipality
417 may contract with one or more public or private entities to
418 provide assistance in implementing and administering the program
419 and shall adopt rules and regulations regarding the eligibility of
420 a municipality for the program and for the implementation and
421 administration of the program. However, no general funds of a
422 municipality may be used for a grant or loan under the program.

423 (b) Participation in the program established under this
424 subsection (5) shall be available to any eligible municipal
425 employee as determined by the governing authority of the
426 municipality. Any person who receives financial assistance under
427 the program must purchase a house and reside within certain
428 geographic boundaries as determined by the governing authority of
429 the municipality.

430 (c) If the assistance authorized under this subsection
431 (5) is structured as a forgivable loan, the participating employee
432 must remain as an employee of the municipality for an agreed upon
433 period of time, as determined by the rules and regulations adopted
434 by the governing authority of the municipality, in order to have
435 the loan forgiven. The forgiveness structure, amount of



436 assistance and repayment terms shall be determined by the
437 governing authority of the municipality.

438 (6) The governing authority of any municipality may contract
439 with a private attorney or private collection agent or agency to
440 collect any type of delinquent payment owed to the municipality,
441 including, but not limited to, past-due fees, fines and other
442 assessments, or with the district attorney of the circuit court
443 district in which the municipality is located to collect any
444 delinquent fees, fines and other assessments. Any such contract
445 debt may provide for payment contingent upon successful collection
446 efforts or payment based upon a percentage of the delinquent
447 amount collected; however, the entire amount of all delinquent
448 payments collected shall be remitted to the municipality and shall
449 not be reduced by any collection costs or fees. Any private
450 attorney or private collection agent or agency contracting with
451 the municipality under the provisions of this subsection shall
452 give bond or other surety payable to the municipality in such
453 amount as the governing authority of the municipality deems
454 sufficient. Any private attorney with whom the municipality
455 contracts under the provisions of this subsection must be a member
456 in good standing of The Mississippi Bar. Any private collection
457 agent or agency with whom the municipality contracts under the
458 provisions of this subsection must meet all licensing requirements
459 for doing business in the State of Mississippi. Neither the
460 municipality nor any officer or employee of the municipality shall



461 be liable, civilly or criminally, for any wrongful or unlawful act
462 or omission of any person or business with whom the municipality
463 has contracted under the provisions of this subsection. The
464 Mississippi Department of Audit shall establish rules and
465 regulations for use by municipalities in contracting with persons
466 or businesses under the provisions of this subsection. If a
467 municipality uses its own employees to collect any type of
468 delinquent payment owed to the municipality, then from and after
469 July 1, 2000, the municipality may charge an additional fee for
470 collection of the delinquent payment provided the payment has been
471 delinquent for ninety (90) days. The collection fee may not
472 exceed twenty-five percent (25%) of the delinquent payment if the
473 collection is made within this state and may not exceed fifty
474 percent (50%) of the delinquent payment if the collection is made
475 outside this state. In conducting collection of delinquent
476 payments, the municipality may utilize credit cards or electronic
477 fund transfers. The municipality may pay any service fees for the
478 use of such methods of collection from the collection fee, but not
479 from the delinquent payment. There shall be due to the
480 municipality from any person whose delinquent payment is collected
481 under a contract executed as provided in this subsection an
482 amount, in addition to the delinquent payment, * * * not to exceed
483 twenty-five percent (25%) of the delinquent payment for
484 collections made within this state, and not to exceed fifty



485 percent (50%) of the delinquent payment for collections made
486 outside of this state.

487 (7) In addition to such authority as is otherwise granted
488 under this section, the governing authority of any municipality
489 may expend funds necessary to maintain and repair, and to purchase
490 liability insurance, tags and decals for, any personal property
491 acquired under the Federal Excess Personal Property Program that
492 is used by the local volunteer fire department.

493 (8) In addition to the authority to expend matching funds
494 under Section 21-19-65, the governing authority of any
495 municipality, in its discretion, may expend municipal funds to
496 match any state, federal or private funding for any program
497 administered by the State of Mississippi, the United States
498 government or any nonprofit organization that is exempt under 26
499 USCS Section 501(c) (3) from paying federal income tax.

500 (9) The governing authority of any municipality that owns
501 and operates a gas distribution system, as defined in Section
502 21-27-11(b), and the governing authority of any public natural gas
503 district are authorized to contract for the purchase of the supply
504 of natural gas for a term of up to ten (10) years with any public
505 nonprofit corporation which is organized under the laws of this
506 state or any other state.

507 (10) The governing authority of any municipality may perform
508 and exercise any duty, responsibility or function, may enter into
509 agreements and contracts, may provide and deliver any services or



510 assistance, and may receive, expend and administer any grants,
511 gifts, matching funds, loans or other monies, in accordance with
512 and as may be authorized by any federal law, rule or regulation
513 creating, establishing or providing for any program, activity or
514 service. The provisions of this subsection shall not be construed
515 as authorizing any municipality or the governing authority of such
516 municipality to perform any function or activity that is
517 specifically prohibited under the laws of this state or as
518 granting any authority in addition to or in conflict with the
519 provisions of any federal law, rule or regulation.

520 (11) (a) In addition to such authority as is otherwise
521 granted under this section, the governing authority of a
522 municipality, in its discretion, may sell, lease, donate or
523 otherwise convey property to any person or legal entity without
524 public notice, without having to advertise for and accept
525 competitive bids and without appraisal, with or without
526 consideration, and on such terms and conditions as the parties may
527 agree if the governing authority finds and determines, by
528 resolution duly and lawfully adopted and spread upon its official
529 minutes:

530 (i) The subject property is real property acquired
531 by the municipality:

- 532 1. By reason of a tax sale;
- 533 2. Because the property was abandoned or
534 blighted; or



535 3. In a proceeding to satisfy a municipal
536 lien against the property;

537 (ii) The subject property is blighted and is
538 located in a blighted area;

539 (iii) The subject property is not needed for
540 governmental or related purposes and is not to be used in the
541 operation of the municipality;

542 (iv) That the sale of the property in the manner
543 otherwise provided by law is not necessary or desirable for the
544 financial welfare of the municipality; and

545 (v) That the use of the property for the purpose
546 for which it is to be conveyed will promote and foster the
547 development and improvement of the community in which it is
548 located or the civic, social, educational, cultural, moral,
549 economic or industrial welfare thereof; the purpose for which the
550 property is conveyed shall be stated.

551 (b) Any deed or instrument of conveyance executed
552 pursuant to the authority granted under this subsection shall
553 contain a clause of reverter providing that title to the property
554 will revert to the municipality if the person or entity to whom
555 the property is conveyed does not fulfill the purpose for which
556 the property was conveyed and satisfy all conditions imposed on
557 the conveyance within two (2) years of the date of the conveyance.



558 (c) In any such deed or instrument of conveyance, the
559 municipality shall retain all mineral rights that it owns,
560 together with the right of ingress and egress to remove same.

561 (12) The governing authority of any municipality may enter
562 into agreements and contracts with any housing authority, as
563 defined in Section 43-33-1, to provide extra police protection in
564 exchange for the payment of compensation or a fee to the
565 municipality.

566 (13) The governing authority of any municipality may
567 reimburse the cost of an insured's deductible for an automobile
568 insurance coverage claim if the claim has been paid for damages to
569 the insured's property arising from the negligence of a duly
570 authorized officer, agent, servant, attorney or employee of the
571 municipality in the performance of his or her official duties, and
572 the officer, agent, servant, attorney or employee owning or
573 operating the motor vehicle is protected by immunity under the
574 Mississippi Tort Claims Act, Section 11-46-1 et seq.

575 (14) The powers conferred by this section shall be in
576 addition and supplemental to the powers conferred by any other
577 law, and nothing contained in this section shall be construed to
578 prohibit, or to prescribe conditions concerning, any practice or
579 practices authorized under any other law.

580 **SECTION 6.** Section 21-27-163, Mississippi Code of 1972, is
581 brought forward as follows:



582 21-27-163. Words and phrases used in Sections 21-27-161
583 through 21-27-191 shall have meanings as follows:

584 (a) "Act" shall mean the Metropolitan Area Waste
585 Disposal Act [Sections 21-27-161 through 21-27-191], as originally
586 enacted or as hereafter amended.

587 (b) "Person" means and includes the State of
588 Mississippi, a municipality as defined herein, any public agency
589 as defined herein or any other city, town or political subdivision
590 or governmental agency of the State of Mississippi or of the
591 United States of America, or any individual, copartnership,
592 association, firm, trust, estate or any other entity whatsoever.

593 (c) "Waterworks" means all works, plants or other
594 facilities necessary for the purpose of collecting, storing,
595 treating and transporting water for domestic, municipal,
596 commercial, industrial, agricultural and manufacturing purposes,
597 including open channels.

598 (d) "Water supply system" means pipelines, conduits,
599 pumping stations and all other structures, devices and appliances
600 appurtenant thereto, including land and right-of-way thereto, for
601 use for transporting water to a point of ultimate use.

602 (e) "Waste" means sewage, industrial waste, municipal
603 waste, recreational waste and agricultural waste, waste heat and
604 any other waste that may cause impairment of the quality of the
605 waters in the state.



606 (f) "Sewerage system" means pipelines or conduits,
607 canals, pumping stations and force mains, and all other
608 structures, devices, facilities and appliances appurtenant
609 thereto, used for collecting or conducting waste to an ultimate
610 point for treatment or disposal.

611 (g) "Treatment facilities" means any plant, disposal
612 field, lagoon, pumping station, constructed drainage ditch or
613 surface water intercepting ditch, canal, incinerator, area devoted
614 to sanitary landfills or other works not specifically mentioned
615 herein, installed for the purpose of treating, neutralizing,
616 stabilizing or disposing of waste or facilities to provide cooling
617 water to collect, control and dispose of waste heat.

618 (h) "Sewage disposal system" means a system for
619 disposing of waste, including but not limited to sewerage systems
620 and treatment facilities, as such terms are defined herein.

621 (i) The terms "pollution," "waters" or "waters in the
622 state" shall have meanings as set forth in the Mississippi Air and
623 Water Pollution Control Law, as now or hereafter amended,
624 appearing as Section 49-17-1 through Section 49-17-70, Mississippi
625 Code of 1972.

626 (j) "Municipality" means any incorporated city having a
627 population in excess of one hundred fifty thousand (150,000)
628 according to the most recently completed federal decennial census,
629 whether operating under general law or under special charter.



630 (k) "Metropolitan area" means all of the area or
631 territory lying within the corporate limits of a municipality as
632 herein defined, whether or not such area or territory be
633 contiguous, and all area or territory lying not more than ten (10)
634 miles from the outer boundary of any of the areas or territories
635 comprising a municipality as herein defined, and all of an
636 incorporated city or town, any part of which lies within the
637 aforementioned ten-mile limit.

638 (l) "Public agency" means any incorporated city or town
639 lying wholly or partially within a metropolitan area, any state
640 board or commission owning or operating properties within a
641 metropolitan area, a district created pursuant to Sections
642 51-9-101 through 51-9-163, or a political subdivision of the State
643 of Mississippi lying wholly or partially within a metropolitan
644 area and having the power to own and operate waterworks, water
645 supply systems, sewerage systems, treatment facilities or sewage
646 disposal systems or other facilities or systems for the
647 collection, transportation, treatment and disposal of waste.

648 (m) "Metropolitan area plan" means a comprehensive plan
649 for water quality management and the control and abatement of
650 pollution within the metropolitan area, consistent with applicable
651 water quality standards established pursuant to the Federal Water
652 Pollution Control Act.

653 (n) "Federal Water Pollution Control Act" shall mean
654 the Federal Water Pollution Control Act, being 33 USCS 1151 et



655 seq. as now or hereafter amended, and the Federal Water Pollution
656 Control Act Amendments of 1972, being P.L. 92-500, 86 Stat. 816 as
657 now or hereafter amended.

658 **SECTION 7.** Section 21-27-203, Mississippi Code of 1972, is
659 brought forward as follows:

660 21-27-203. For purposes of Sections 21-27-201 through
661 21-27-221, the following terms shall have the meanings ascribed
662 herein, unless the context shall otherwise require:

663 (a) "Association" means the Mississippi Water and
664 Pollution Control Operator's Association, Inc.

665 (b) "Board" means the Mississippi State Board of
666 Health.

667 (c) "Commission" means the Mississippi Commission on
668 Environmental Quality.

669 (d) "Community water system" means a public water
670 system serving piped water for human consumption to fifteen (15)
671 or more individual service connections used by year-round
672 consumers or regularly serving twenty-five (25) or more individual
673 consumers year-round, including, but not limited to, any
674 collection, pretreatment, treatment, storage and/or distribution
675 facilities or equipment used primarily as part of, or in
676 connection with, that system, regardless of whether or not the
677 components are under the ownership or control of the operator of
678 the system.



679 (e) "Commercial Class I rubbish site" means a permitted
680 rubbish site which accepts for disposal Class I rubbish, as
681 defined by the commission, for compensation or from more than one
682 (1) generator.

683 (f) "Nontransient, noncommunity water system" means a
684 public water system that is not a community water system and that
685 regularly serves at least twenty-five (25) of the same persons
686 over six (6) months per year.

687 (g) "Operator" means the person who directly supervises
688 and is personally responsible for the daily operation and
689 maintenance of a wastewater facility, community water system,
690 nontransient, noncommunity water system or commercial nonhazardous
691 solid waste management landfill.

692 (h) "Person" means the state or any agency or
693 institution of the state, any municipality, political subdivision,
694 public or private corporation, individual, partnership,
695 association or other entity, including any officer or governing or
696 managing body of any municipality, political subdivision, or
697 public or private corporation, or the United States or any officer
698 or employee of the United States.

699 (i) "Pollution" means contamination or other alteration
700 of the physical, chemical or biological properties of any waters
701 of the state, including change in temperature, taste, color,
702 turbidity or odor of the waters, or the discharge of any liquid,



703 gaseous, solid, radioactive or other substance or heat into any
704 waters of the state.

705 (j) "Wastewater facilities" means pipelines or
706 conduits, pumping stations, force mains, treatment plants, lagoons
707 or any other structure, device, appurtenance or facility, whether
708 operated individually or in any combination, used for collecting,
709 treating and/or disposing of municipal or domestic wastewater, by
710 either surface or underground methods, which is required to have a
711 permit under Section 49-17-29.

712 (k) "Waters of the state" means all waters within the
713 jurisdiction of this state, including all streams, lakes, ponds,
714 impounding reservoirs, marshes, watercourses, waterways, wells,
715 springs, irrigation systems, drainage systems and all other bodies
716 or accumulations of water, surface and underground, natural or
717 artificial, situated wholly or partly within or bordering upon the
718 state, and such coastal waters as are within the jurisdiction of
719 the state, except lakes, ponds or other surface waters which are
720 wholly landlocked and privately owned.

721 **SECTION 8.** Section 21-27-205, Mississippi Code of 1972, is
722 brought forward as follows:

723 21-27-205. (1) The board shall classify all municipal and
724 domestic water collection, storage, treatment and/or distribution
725 systems actually used or intended for use as community water
726 systems or nontransient, noncommunity water systems according to
727 size, type, character of water to be treated, number of service



728 connections, and other physical conditions affecting the operation
729 and maintenance of those systems, and also according to the degree
730 of skill, knowledge, training and experience required of the
731 operators of those systems to ensure competent, efficient
732 operation and maintenance of such systems and protection of public
733 health.

734 (2) The commission shall classify all municipal and domestic
735 wastewater facilities according to size, type, character of
736 wastewater to be treated, and other physical conditions affecting
737 the operation and maintenance of the facilities, and also
738 according to the degree of skill, knowledge, training and
739 experience required of the operators of the facilities to ensure
740 competent, efficient operation and maintenance of the facilities
741 and prevention of pollution of waters of the state.

742 (3) The commission shall establish reciprocal certification
743 arrangements with other states and private companies that
744 establish training and certification programs for operators of
745 commercial nonhazardous solid waste management landfills that meet
746 or exceed the requirements of the commercial nonhazardous solid
747 waste management landfill operator training and certification
748 program established by the commission.

749 (4) The commission may establish reciprocal certification
750 arrangements with other states and private companies that
751 establish training and certification programs for operators of
752 commercial Class I rubbish sites that meet or exceed the



753 requirements of the commercial Class I rubbish site operator
754 training and certification program established by the commission.

755 **SECTION 9.** Section 21-27-217, Mississippi Code of 1972, is
756 brought forward as follows:

757 21-27-217. (1) Any person found by the board or commission,
758 as the case may be, or any duly designated hearing officer
759 appointed thereby, violating any of the provisions of Sections
760 21-27-201 through 21-27-221, or any rule or regulation promulgated
761 by the board or commission hereunder, or any order issued by the
762 board or commission in the exercise of their authority and duties
763 hereunder, shall be subject to a civil penalty of not less than
764 One Hundred Dollars (\$100.00) nor more than One Thousand Dollars
765 (\$1,000.00), for each violation, such penalty to be levied and
766 assessed by the board or commission or designated hearing officer.
767 Appeals from such actions may be taken as provided hereinafter.
768 Each day upon which a violation occurs shall be deemed a separate
769 and additional violation.

770 In determining the amount of any monetary penalty assessed
771 hereunder, the board or commission or duly appointed hearing
772 officer shall consider all factors bearing upon the violation,
773 including but not limited to, any resulting actual or probable
774 pollution of the lands and/or waters of the state and/or
775 endangerment to public health, and the nature and extent thereof,
776 any violation of the terms or conditions of permits issued by the
777 board or commission for the affected facility, and any actual or



778 probable damage to the affected facility caused by improper
779 operation thereof.

780 (2) In lieu of, or in addition to, the penalty provided in
781 subsection (1) of this section, the board and commission shall
782 have power to institute and maintain in the name of the state any
783 and all proceedings necessary or appropriate to enforce the
784 provisions of Sections 21-27-201 through 21-27-221, rules and
785 regulations in force pursuant hereto, and orders and operator
786 certifications made and issued hereunder, in the appropriate
787 circuit, chancery, county or justice court of the county in which
788 venue may lie. The board and commission may obtain mandatory or
789 prohibitory injunctive relief, either temporary or permanent.

790 (3) Any person found guilty of violating any provision of
791 Sections 21-27-201 through 21-27-221, upon conviction, shall be
792 punished by a fine of not less than One Hundred Dollars (\$100.00)
793 nor more than One Thousand Dollars (\$1,000.00) per day of
794 violation.

795 **SECTION 10.** Section 27-31-1, Mississippi Code of 1972, is
796 brought forward as follows:

797 27-31-1. The following shall be exempt from taxation:

798 (a) All cemeteries used exclusively for burial
799 purposes.

800 (b) All property, real or personal, belonging to the
801 State of Mississippi or any of its political subdivisions, except
802 property of a municipality not being used for a proper municipal



803 purpose and located outside the county or counties in which such
804 municipality is located. A proper municipal purpose within the
805 meaning of this section shall be any authorized governmental or
806 corporate function of a municipality.

807 (c) All property, real or personal, owned by units of
808 the Mississippi National Guard, or title to which is vested in
809 trustees for the benefit of any unit of the Mississippi National
810 Guard; provided such property is used exclusively for such unit,
811 or for public purposes, and not for profit.

812 (d) All property, real or personal, belonging to any
813 religious society, or ecclesiastical body, or any congregation
814 thereof, or to any charitable society, or to any historical or
815 patriotic association or society, or to any garden or pilgrimage
816 club or association and used exclusively for such society or
817 association and not for profit; not exceeding, however, the amount
818 of land which such association or society may own as provided in
819 Section 79-11-33. All property, real or personal, belonging to
820 any foundation organized as a nonprofit corporation that is exempt
821 from federal income taxation under Section 501(c)(3) of the
822 Internal Revenue Code and that receives, invests and administers
823 private support for a state-supported institution of higher
824 learning, a public community college or junior college located in
825 the State of Mississippi or a nonprofit private university or
826 college located in the State of Mississippi, as the case may be.
827 For the sole purpose of applying the preceding sentence, all



828 property, real or personal, belonging to an entity that is wholly
829 owned by and controlled by such a foundation shall be treated as
830 belonging to the foundation. All property, real or personal,
831 belonging to any rural waterworks system or rural sewage disposal
832 system incorporated under the provisions of Section 79-11-1. All
833 property, real or personal, belonging to any college or
834 institution for the education of youths, used directly and
835 exclusively for such purposes, provided that no such college or
836 institution for the education of youths shall have exempt from
837 taxation more than six hundred forty (640) acres of land;
838 provided, however, this exemption shall not apply to commercial
839 schools and colleges or trade institutions or schools where the
840 profits of same inure to individuals, associations or
841 corporations. All property, real or personal, belonging to an
842 individual, institution or corporation and used for the operation
843 of a grammar school, junior high school, high school or military
844 school. All property, real or personal, owned and occupied by a
845 fraternal and benevolent organization, when used by such
846 organization, and from which no rentals or other profits accrue to
847 the organization, but any part rented or from which revenue is
848 received shall be taxed.

849 (e) All property, real or personal, held and occupied
850 by trustees of public schools, and school lands of the respective
851 townships for the use of public schools, and all property kept in
852 storage for the convenience and benefit of the State of



853 Mississippi in warehouses owned or leased by the State of
854 Mississippi, wherein said property is to be sold by the Alcoholic
855 Beverage Control Division of the Department of Revenue of the
856 State of Mississippi.

857 (f) All property, real or personal, whether belonging
858 to religious or charitable or benevolent organizations, which is
859 used for hospital purposes, and nurses' homes where a part
860 thereof, and which maintain one or more charity wards that are for
861 charity patients, and where all the income from said hospitals and
862 nurses' homes is used entirely for the purposes thereof and no
863 part of the same for profit. All property, real or personal,
864 belonging to a federally qualified health center where all the
865 income from such center is used entirely for the purposes thereof
866 and no part of the same for profit.

867 (g) The wearing apparel of every person; and also
868 jewelry and watches kept by the owner for personal use to the
869 extent of One Hundred Dollars (\$100.00) in value for each owner.

870 (h) Provisions on hand for family consumption.

871 (i) All farm products grown in this state for a period
872 of two (2) years after they are harvested, when in the possession
873 of or the title to which is in the producer, except the tax of
874 one-fifth of one percent (1/5 of 1%) per pound on lint cotton now
875 levied by the Board of Commissioners of the Mississippi Levee
876 District; and lint cotton for five (5) years, and cottonseed,



877 soybeans, oats, rice and wheat for one (1) year regardless of
878 ownership.

879 (j) All guns and pistols kept by the owner for private
880 use.

881 (k) All poultry in the hands of the producer.

882 (l) Household furniture, including all articles kept in
883 the home by the owner for his own personal or family use; but this
884 shall not apply to hotels, rooming houses or rented or leased
885 apartments.

886 (m) All cattle and oxen.

887 (n) All sheep, goats and hogs.

888 (o) All horses, mules and asses.

889 (p) Farming tools, implements and machinery, when used
890 exclusively in the cultivation or harvesting of crops or timber.

891 (q) All property of agricultural and mechanical
892 associations and fairs used for promoting their objects, and where
893 no part of the proceeds is used for profit.

894 (r) The libraries of all persons.

895 (s) All pictures and works of art, not kept for or
896 offered for sale as merchandise.

897 (t) The tools of any mechanic necessary for carrying on
898 his trade.

899 (u) All state, county, municipal, levee, drainage and
900 all school bonds or other governmental obligations, and all bonds
901 and/or evidences of debts issued by any church or church



902 organization in this state, and all notes and evidences of
903 indebtedness which bear a rate of interest not greater than the
904 maximum rate per annum applicable under the law; and all money
905 loaned at a rate of interest not exceeding the maximum rate per
906 annum applicable under the law; and all stock in or bonds of
907 foreign corporations or associations shall be exempt from all ad
908 valorem taxes.

909 (v) All lands and other property situated or located
910 between the Mississippi River and the levee shall be exempt from
911 the payment of any and all road taxes levied or assessed under any
912 road laws of this state.

913 (w) Any and all money on deposit in either national
914 banks, state banks or trust companies, on open account, savings
915 account or time deposit.

916 (x) All wagons, carts, drays, carriages and other
917 horse-drawn vehicles, kept for the use of the owner.

918 (y) (i) Boats, seines and fishing equipment used in
919 fishing and shrimping operations and in the taking or catching of
920 oysters.

921 (ii) All towboats, tugboats and barges documented
922 under the laws of the United States, except watercraft of every
923 kind and character used in connection with gaming operations.

924 (z) (i) All materials used in the construction and/or
925 conversion of vessels in this state;



926 (ii) Vessels while under construction and/or
927 conversion;

928 (iii) Vessels while in the possession of the
929 manufacturer, builder or converter, for a period of twelve (12)
930 months after completion of construction and/or conversion;
931 however, the twelve-month limitation shall not apply to:

932 1. Vessels used for the exploration for, or
933 production of, oil, gas and other minerals offshore outside the
934 boundaries of this state; or

935 2. Vessels that were used for the exploration
936 for, or production of, oil, gas and other minerals that are
937 converted to a new service for use outside the boundaries of this
938 state;

939 (iv) 1. In order for a vessel described in
940 subparagraph (iii) of this paragraph (z) to be exempt for a period
941 of more than twelve (12) months, the vessel must:

942 a. Be operating or operable, generating
943 or capable of generating its own power or connected to some other
944 power source, and not removed from the service or use for which
945 manufactured or to which converted; and

946 b. The manufacturer, builder, converter
947 or other entity possessing the vessel must be in compliance with
948 any lease or other agreement with any applicable port authority or
949 other entity regarding the vessel and in compliance with all
950 applicable tax laws of this state and applicable federal tax laws.



951 2. A vessel exempt from taxation under
952 subparagraph (iii) of this paragraph (z) may not be exempt for a
953 period of more than three (3) years unless the board of
954 supervisors of the county and/or governing authorities of the
955 municipality, as the case may be, in which the vessel would
956 otherwise be taxable adopts a resolution or ordinance authorizing
957 the extension of the exemption and setting a maximum period for
958 the exemption.

959 (v) As used in this paragraph (z), the term
960 "vessel" includes ships, offshore drilling equipment, dry docks,
961 boats and barges, except watercraft of every kind and character
962 used in connection with gaming operations.

963 (aa) Sixty-six and two-thirds percent (66-2/3%) of
964 nuclear fuel and reprocessed, recycled or residual nuclear fuel
965 by-products, fissionable or otherwise, used or to be used in
966 generation of electricity by persons defined as public utilities
967 in Section 77-3-3.

968 (bb) All growing nursery stock.

969 (cc) A semitrailer used in interstate commerce.

970 (dd) All property, real or personal, used exclusively
971 for the housing of and provision of services to elderly persons,
972 disabled persons, mentally impaired persons or as a nursing home,
973 which is owned, operated and managed by a not-for-profit
974 corporation, qualified under Section 501(c)(3) of the Internal
975 Revenue Code, whose membership or governing body is appointed or



976 confirmed by a religious society or ecclesiastical body or any
977 congregation thereof.

978 (ee) All vessels while in the hands of bona fide
979 dealers as merchandise and which are not being operated upon the
980 waters of this state shall be exempt from ad valorem taxes. As
981 used in this paragraph, the terms "vessel" and "waters of this
982 state" shall have the meaning ascribed to such terms in Section
983 59-21-3.

984 (ff) All property, real or personal, owned by a
985 nonprofit organization that: (i) is qualified as tax exempt under
986 Section 501(c)(4) of the Internal Revenue Code of 1986, as
987 amended; (ii) assists in the implementation of the national
988 contingency plan or area contingency plan, and which is created in
989 response to the requirements of Title IV, Subtitle B of the Oil
990 Pollution Act of 1990, Public Law 101-380; (iii) engages primarily
991 in programs to contain, clean up and otherwise mitigate spills of
992 oil or other substances occurring in the United States coastal or
993 tidal waters; and (iv) is used for the purposes of the
994 organization.

995 (gg) If a municipality changes its boundaries so as to
996 include within the boundaries of such municipality the project
997 site of any project as defined in Section 57-75-5(f)(iv)1, Section
998 57-75-5(f)(xxi) or Section 57-75-5(f)(xxviii) or Section
999 57-75-5(f)(xxix), all real and personal property located on the
1000 project site within the boundaries of such municipality that is



1001 owned by a business enterprise operating such project, shall be
1002 exempt from ad valorem taxation for a period of time not to exceed
1003 thirty (30) years upon receiving approval for such exemption by
1004 the Mississippi Major Economic Impact Authority. The provisions
1005 of this paragraph shall not be construed to authorize a breach of
1006 any agreement entered into pursuant to Section 21-1-59.

1007 (hh) All leases, lease contracts or lease agreements
1008 (including, but not limited to, subleases, sublease contracts and
1009 sublease agreements), and leaseholds or leasehold interests
1010 (including, but not limited to, subleaseholds and subleasehold
1011 interests), of or with respect to any and all property (real,
1012 personal or mixed) constituting all or any part of a facility for
1013 the manufacture, production, generation, transmission and/or
1014 distribution of electricity, and any real property related
1015 thereto, shall be exempt from ad valorem taxation during the
1016 period as the United States is both the title owner of the
1017 property and a sublessee of or with respect to the property;
1018 however, the exemption authorized by this paragraph (hh) shall not
1019 apply to any entity to whom the United States sub-subleases its
1020 interest in the property nor to any entity to whom the United
1021 States assigns its sublease interest in the property. As used in
1022 this paragraph, the term "United States" includes an agency or
1023 instrumentality of the United States of America. This paragraph
1024 (hh) shall apply to all assessments for ad valorem taxation for
1025 the 2003 calendar year and each calendar year thereafter.



1026 (ii) All property, real, personal or mixed, including
1027 fixtures and leaseholds, used by Mississippi nonprofit entities
1028 qualified, on or before January 1, 2005, under Section 501(c)(3)
1029 of the Internal Revenue Code to provide support and operate
1030 technology incubators for research and development start-up
1031 companies, telecommunication startup companies and/or other
1032 technology startup companies, utilizing technology spun-off from
1033 research and development activities of the public colleges and
1034 universities of this state, State of Mississippi governmental
1035 research or development activities resulting therefrom located
1036 within the State of Mississippi.

1037 (jj) All property, real, personal or mixed, including
1038 fixtures and leaseholds, of start-up companies (as described in
1039 paragraph (ii) of this section) for the period of time, not to
1040 exceed five (5) years, that the startup company remains a tenant
1041 of a technology incubator (as described in paragraph (ii) of this
1042 section).

1043 (kk) All leases, lease contracts or lease agreements
1044 (including, but not limited to, subleases, sublease contracts and
1045 sublease agreements), and leaseholds or leasehold interests, of or
1046 with respect to any and all property (real, personal or mixed)
1047 constituting all or any part of an auxiliary facility, and any
1048 real property related thereto, constructed or renovated pursuant
1049 to Section 37-101-41, Mississippi Code of 1972.



1050 (ll) Equipment brought into the state temporarily for
1051 use during a disaster response period as provided in Sections
1052 27-113-1 through 27-113-9 and subsequently removed from the state
1053 on or before the end of the disaster response period as defined in
1054 Section 27-113-5.

1055 (mm) For any lease or contractual arrangement to which
1056 the Department of Finance and Administration and a nonprofit
1057 corporation are a party to as provided in Section 39-25-1(5), the
1058 nonprofit corporation shall, along with the possessory and
1059 leasehold interests and/or real and personal property of the
1060 corporation, be exempt from all ad valorem taxation, including,
1061 but not limited to, school, city and county ad valorem taxes, for
1062 the term or period of time stated in the lease or contractual
1063 arrangement.

1064 (nn) All property, real or personal, that is owned,
1065 operated and managed by a not-for-profit corporation qualified under
1066 Section 501(c)(3) of the Internal Revenue Code, and used to provide,
1067 free of charge, (i) a practice facility for a public school district
1068 swim team, and (ii) a facility for another not-for-profit
1069 organization as defined under Section 501(c)(3) of the Internal
1070 Revenue Code to conduct water safety and lifeguard training programs.
1071 This section shall not apply to real or personal property owned by a
1072 country club, tennis club with a pool, or any club requiring stock
1073 ownership for membership.



1074 **SECTION 11.** Section 27-55-53, Mississippi Code of 1972, is
1075 brought forward as follows:

1076 27-55-53. Every person hauling, transporting or conveying
1077 more than fifty (50) gallons of gasoline over the highways,
1078 streets, alleys or waters of this state, or into this state over
1079 any highway, street, alley or water route, shall, during the
1080 entire time he is so engaged, have in his possession a bill of
1081 sale, bills of lading, invoices or other written evidence, each of
1082 which shall be serially numbered, showing the kind and amount of
1083 gasoline being transported, the name and address of the person
1084 from whom said gasoline was received, and the name and address of
1085 the person to whom delivery is to be made. The vehicle or boat
1086 conveying said gasoline shall have clearly printed on it the name
1087 and address of the person transporting such gasoline on both sides
1088 of the vehicle, or boat, in well-balanced letters of not less than
1089 two (2) inches in height on a contrasting background.

1090 Any person transporting gasoline without a shipping document
1091 containing the information set forth in this section or who
1092 diverts a shipment of gasoline to a destination other than the
1093 destination listed on such shipping document or who alters a
1094 shipping document without notice to the commission shall be liable
1095 for a fine of One Thousand Dollars (\$1,000.00) per offense and the
1096 entire amount of the state excise tax upon such gasoline shall be
1097 deemed due and payable, plus a penalty of twenty-five percent
1098 (25%) of the amount of such tax. Any authorized representative of



1099 the commission or the enforcement officers of the Mississippi
1100 Department of Transportation shall have the right to seize or
1101 impound such vehicle or boat until the excise tax and penalty have
1102 been paid. Notice to the commission shall consist of contacting
1103 the National Diversion Registry, reporting the diversion and
1104 obtaining a registration number.

1105 The commission, its employees or agents, including the
1106 enforcement officers of the Mississippi Department of
1107 Transportation, or any sheriff, deputy sheriff, constable or
1108 police officer of this state is hereby authorized to inspect any
1109 vehicle or boat transporting gasoline over the highways, streets,
1110 alleys or waters of this state, to examine the contents of any
1111 such vehicle or boat, to take a sample of each grade of gasoline
1112 contained in said vehicle or boat provided no sample shall exceed
1113 one (1) gallon, and to inspect the bills of lading, invoices or
1114 other records pertaining to the gasoline being transported in such
1115 vehicle or boat.

1116 Any person other than a common or contract carrier bringing
1117 gasoline into this state in quantities of more than fifty (50)
1118 gallons shall give notice to the commission of his intent to
1119 import such gasoline. The commission is authorized to promulgate
1120 rules setting forth the manner in which such notice is to be
1121 given. However, if information on gasoline imported into this
1122 state can be accurately secured from other sources by the
1123 commission, it may waive the requirements of such notice.



1124 If any person, other than a common or contract carrier, shall
1125 transport gasoline over the highways of this state by motor
1126 vehicle without having given the notice required by this section,
1127 or if a copy of such notice is not carried in such motor vehicle
1128 as required by this section, the entire amount of the state excise
1129 tax upon such gasoline being transported shall be deemed due and
1130 payable, plus a penalty of twenty-five percent (25%) of the amount
1131 of such tax, and any authorized representative of the commission
1132 or the enforcement officers of the Mississippi Department of
1133 Transportation shall have the right to seize or impound the motor
1134 vehicle in which such gasoline is being transported until such
1135 excise tax together with the penalty thereon has been paid.
1136 Provided, however, that said penalty shall not apply when the
1137 driver of the truck stops at the first weighing station in the
1138 line of travel and secures the signature of the officer on duty on
1139 the import notice.

1140 **SECTION 12.** Section 27-55-547, Mississippi Code of 1972, is
1141 brought forward as follows:

1142 27-55-547. The commissioner and his agents and employees
1143 shall have full access, ingress and egress at all reasonable hours
1144 to and from any place or building where special fuel may be
1145 received, stored, transported, sold, offered or exposed for sale,
1146 manufactured, refined, distilled, compounded or blended. The
1147 commissioner and his agents and employees shall have the right to
1148 open and inspect any case, package or other container, any tank,



1149 pump, tank car or storage tank in which special fuel is kept and
1150 enter upon any barge, vessel or other vehicle transporting special
1151 fuel and, with instruments conforming to the weights and measures
1152 adopted by the United States Bureau of Standards, check any
1153 measuring device or volume of weight of the contents of any such
1154 container.

1155 The commission, its employees or agents and enforcement
1156 officers of the Mississippi Department of Transportation are
1157 hereby authorized to inspect any vehicle transporting special fuel
1158 over the highways of this state, or any boat, barge or vessel
1159 transporting special fuel over the waters of this state, to
1160 examine the contents of such vehicle, boat, barge or vessel, to
1161 take a sample, not to exceed one (1) gallon, of the special fuel
1162 contained in such vehicle, boat, barge or vessel, and to inspect
1163 the bills of lading, manifest, invoices or other records
1164 pertaining to the special fuel being transported.

1165 The commission, its employees or agents and enforcement
1166 officers of the Mississippi Department of Transportation are
1167 hereby authorized to stop any motor vehicle traveling the highways
1168 of this state; to inspect the contents of the motor vehicle's fuel
1169 supply tank; to take a sample, not to exceed one (1) gallon, of
1170 the contents of the fuel supply tank of such motor vehicle and to
1171 examine any invoices, receipts or other documents pertaining to
1172 the contents of the motor vehicle's fuel supply tank.



1173 Any person who refuses to allow an inspection as authorized
1174 in this section shall be guilty of a misdemeanor and, upon
1175 conviction thereof, shall be punished by a fine of not more than
1176 One Thousand Dollars (\$1,000.00), or imprisonment in the county
1177 jail for not more than six (6) months, or both such fine and
1178 imprisonment.

1179 **SECTION 13.** Section 27-55-559, Mississippi Code of 1972, is
1180 brought forward as follows:

1181 27-55-559. Every person hauling, transporting or conveying
1182 more than five hundred (500) gallons of special fuel over the
1183 highways, streets, alleys or waters of this state, or into this
1184 state over any highway, street, alley or water route, shall,
1185 during the entire time he is so engaged, have in his possession a
1186 bill of sale, bills of lading, invoices or other written evidence,
1187 each of which shall be serially numbered, showing the kind and
1188 amount of special fuel being transported, the name and address of
1189 the person from whom such special fuel was received, and the name
1190 and address of the person to whom delivery is to be made. The
1191 vehicle or boat conveying such special fuel shall have clearly
1192 printed on it the name and address of the person transporting the
1193 special fuel on both sides of the vehicle or boat in well-balanced
1194 letters of not less than two (2) inches in height on a contrasting
1195 background.

1196 Any person transporting special fuel without a shipping
1197 document containing the required information or who diverts a



1198 shipment of special fuel to a destination other than the
1199 destination listed on such shipping document or who alters a
1200 shipping document without notice to the commission shall be liable
1201 for a fine of One Thousand Dollars (\$1,000.00) per offense and the
1202 entire amount of the state excise tax upon such special fuel shall
1203 be deemed due and payable, plus a penalty of twenty-five percent
1204 (25%) of the amount of such tax. Any authorized representative of
1205 the commission or the enforcement officers of the Mississippi
1206 Department of Transportation shall have the right to seize or
1207 impound such vehicle or boat until the excise tax and penalty have
1208 been paid. Notice to the commission shall consist of contacting
1209 the National Diversion Registry, reporting the diversion and
1210 obtaining a registration number.

1211 Any person other than a common or contract carrier bringing
1212 special fuel into this state in quantities of more than five
1213 hundred (500) gallons shall give notice to the commission of his
1214 intent to import such special fuel. The commission is authorized
1215 to promulgate rules setting forth the manner in which such notice
1216 is to be given. However, if information on special fuel imported
1217 into this state can be accurately secured from other sources by
1218 the commission, it may waive the requirements of such notice.

1219 If any person, other than a common or contract carrier, shall
1220 transport special fuel over the highways of this state by motor
1221 vehicle without having given the notice required by this section,
1222 or if a copy of such notice is not carried in such motor vehicle



1223 as required by this section, the entire amount of the state excise
1224 tax upon such special fuel being transported shall be deemed due
1225 and payable, plus a penalty of twenty-five percent (25%) of the
1226 amount of such tax, and any authorized representative of the
1227 commission or enforcement officers of the Mississippi Department
1228 of Transportation shall have the right to seize or impound the
1229 motor vehicle in which such special fuel is being transported
1230 until such excise tax together with the penalty thereon has been
1231 paid. Provided, however, that the penalty shall not apply when
1232 the driver of the truck stops at the first weighing station in the
1233 line of travel and secures the signature of the officer on duty on
1234 the import notice.

1235 **SECTION 14.** Section 27-57-41, Mississippi Code of 1972, is
1236 brought forward as follows:

1237 27-57-41. Every person hauling, transporting, or conveying
1238 more than six (6) gallons of lubricating oil, upon which tax has
1239 not been paid, over the highways, streets, alleys or waters of
1240 this state, or into this state over any highway, street, alley or
1241 water route, shall, during the entire time he is so engaged, have
1242 in his possession a bill of sale, bill of lading, invoice, or
1243 other written evidence showing the kind and amount of lubricating
1244 oil being transported, the name and address of the person from
1245 whom said lubricating oil was received, and the name and address
1246 of the person to whom delivery is to be made. Likewise, the
1247 vehicle or boat conveying such lubricating oil shall have on it



1248 the name and address of the person or company transporting such
1249 lubricating oil clearly printed on both sides of the vehicle or
1250 boat in well-balanced letters of not less than two (2) inches in
1251 height on a contrasting background.

1252 Any bonded, qualified distributor transporting lubricating
1253 oil from his place of business in this state for delivery to his
1254 agent or customer shall not be required to have in his possession
1255 while so transporting such lubricating oil the bill of sale,
1256 invoice, or other written evidence required by this section, but
1257 must conform in all other particulars with this section.

1258 The comptroller, in person, or by any of his employees, any
1259 sheriff, deputy sheriff, constable, or police officer of this
1260 state, is hereby authorized to inspect any vehicle or boat
1261 transporting lubricating oil over the highways, streets, alleys or
1262 waters of this state, to examine the contents thereof, to take
1263 samples of any lubricating oil contained in said vehicle or boat,
1264 said sample not to exceed one (1) quart, and to demand for
1265 inspection the production of the invoice, or other records
1266 pertaining to the lubricating oil being transported in such
1267 vehicle or boat.

1268 **SECTION 15.** Section 27-65-22, Mississippi Code of 1972, is
1269 brought forward as follows:

1270 27-65-22. (1) Upon every person engaging or continuing in
1271 any amusement business or activity, which shall include all manner
1272 and forms of entertainment and amusement, all forms of diversion,



1273 sport, recreation or pastime, shows, exhibitions, contests,
1274 displays, games or any other and all methods of obtaining
1275 admission charges, donations, contributions or monetary charges of
1276 any character, from the general public or a limited or selected
1277 number thereof, directly or indirectly in return for other than
1278 tangible property or specific personal or professional services,
1279 whether such amusement is held or conducted in a public or private
1280 building, hotel, tent, pavilion, lot or resort, enclosed or in the
1281 open, there is hereby levied, assessed and shall be collected a
1282 tax equal to seven percent (7%) of the gross income received as
1283 admission, except as otherwise provided herein. In lieu of the
1284 rate set forth above, there is hereby imposed, levied and
1285 assessed, to be collected as hereinafter provided, a tax of three
1286 percent (3%) of gross revenue derived from sales of admission to
1287 publicly owned enclosed coliseums and auditoriums (except
1288 admissions to athletic contests between colleges and
1289 universities). There is hereby imposed, levied and assessed a tax
1290 of seven percent (7%) of gross revenue derived from sales of
1291 admission to events conducted on property managed by the
1292 Mississippi Veterans Memorial Stadium, which tax shall be
1293 administered in the manner prescribed in this chapter, subject,
1294 however, to the provisions of Sections 55-23-3 through 55-23-11.

1295 (2) The operator of any place of amusement in this state
1296 shall collect the tax imposed by this section, in addition to the
1297 price charged for admission to any place of amusement, and under



1298 all circumstances the person conducting the amusement shall be
1299 liable for, and pay the tax imposed based upon the actual charge
1300 for such admission. Where permits are obtained for conducting
1301 temporary amusements by persons who are not the owners, lessees or
1302 custodians of the buildings, lots or places where the amusements
1303 are to be conducted, or where such temporary amusement is
1304 permitted by the owner, lessee or custodian of any place to be
1305 conducted without the procurement of a permit as required by this
1306 chapter, the tax imposed by this chapter shall be paid by the
1307 owner, lessee or custodian of such place where such temporary
1308 amusement is held or conducted, unless paid by the person
1309 conducting the amusement, and the applicant for such temporary
1310 permit shall furnish with the application therefor, the name and
1311 address of the owner, lessee or custodian of the premises upon
1312 which such amusement is to be conducted, and such owner, lessee or
1313 custodian shall be notified by the commission of the issuance of
1314 such permit, and of the joint liability for such tax.

1315 (3) The tax imposed by this section shall not be levied or
1316 collected upon:

1317 (a) Any admissions charged at any place of amusement
1318 operated by a religious, charitable or educational organization,
1319 or by a nonprofit civic club or fraternal organization (i) when
1320 the net proceeds of such admissions do not inure to any one or
1321 more individuals within such organization and are to be used
1322 solely for religious, charitable, educational or civic purposes;



1323 or (ii) when the entire net proceeds are used to defray the normal
1324 operating expenses of such organization, such as loan payments,
1325 maintenance costs, repairs and other operating expenses;

1326 (b) Any admissions charged to hear gospel singing when
1327 promoted by a duly constituted local, bona fide nonprofit
1328 charitable or religious organization, irrespective of the fact
1329 that the performers and promoters are paid out of the proceeds of
1330 admissions collected, provided the program is composed entirely of
1331 gospel singing and not generally mixed with hillbilly or popular
1332 singing;

1333 (c) Any admissions charged at any athletic games or
1334 contests between high schools or between grammar schools;

1335 (d) Any admissions or tickets to or for baseball games
1336 between teams operated under a professional league franchise;

1337 (e) Any admissions to county, state or community fairs,
1338 or any admissions to entertainments presented in community homes
1339 or houses which are publicly owned and controlled, and the
1340 proceeds of which do not inure to any individual or individuals;

1341 (f) Any admissions or tickets to organized garden
1342 pilgrimages and to antebellum and historic houses when sponsored
1343 by an organized civic or garden club;

1344 (g) Any admissions to any golf tournament held under
1345 the auspices of the Professional Golf Association or United States
1346 Golf Association wherein touring professionals compete, if such
1347 tournament is sponsored by a nonprofit association incorporated



1348 under the laws of the State of Mississippi where no dividends are
1349 declared and the proceeds do not inure to any individual or group;

1350 (h) Any admissions to university or community college
1351 conference, state, regional or national playoffs or championships;

1352 (i) Any admissions or fees charged by any county or
1353 municipally owned and operated swimming pools, golf courses and
1354 tennis courts other than sales or rental of tangible personal
1355 property;

1356 (j) Any admissions charged for the performance of
1357 symphony orchestras, operas, vocal or instrumental artists in
1358 which professional or amateur performers are compensated out of
1359 the proceeds of such admissions, when sponsored by local music or
1360 charity associations, or amateur dramatic performances or
1361 professional dramatic productions when sponsored by a children's
1362 dramatic association, where no dividends are declared, profits
1363 received, nor any salary or compensation paid to any of the
1364 members of such associations, or to any person for procuring or
1365 producing such performance;

1366 (k) Any admissions or tickets to or for hockey games
1367 between teams operated under a professional league franchise;

1368 (l) Any admissions or tickets to or for events
1369 sanctioned by the Mississippi Athletic Commission that are held
1370 within publicly owned enclosed coliseums and auditoriums;

1371 (m) Guided tours on any navigable waters of this state,
1372 which include providing accommodations, guide services and/or



1373 related equipment operated by or under the direction of the person
1374 providing the tour, for the purposes of outdoor tourism;

1375 (n) Any admissions to events held solely for religious
1376 or charitable purposes at livestock facilities, agriculture
1377 facilities or other facilities constructed, renovated or expanded
1378 with funds from the grant program authorized under Section 18 of
1379 Chapter 530, Laws of 1995; and

1380 (o) (i) Any admissions charged at events, activities
1381 or entertainments:

1382 1. Which are open to the public and held in
1383 or on parks, lands or buildings which are publicly owned, leased,
1384 used and/or controlled by a municipality, or any agency thereof;

1385 2. Which are created and sponsored by the
1386 municipality, or an agency thereof; and

1387 3. The proceeds of which do not inure to the
1388 benefit of any individual or individuals; however,

1389 (ii) The governing authorities of a municipality
1390 may require the tax imposed by this section to be levied and
1391 collected at events, activities or entertainments described in
1392 subparagraph (i) of this paragraph by:

1393 1. Adopting an ordinance requiring the levy
1394 and collection of the tax;

1395 2. Providing the Department of Revenue with a
1396 certified copy of the ordinance requiring the tax to be levied and



1397 assessed at least thirty (30) days prior to the effective date of
1398 the ordinance;

1399 (iii) If the ordinance described in subparagraph
1400 (ii) of this paragraph is repealed, the municipality shall provide
1401 the Department of Revenue with a certified copy of the repeal of
1402 the ordinance at least thirty (30) days prior to the effective
1403 date of the repeal.

1404 **SECTION 16.** Section 27-65-101, Mississippi Code of 1972, is
1405 brought forward as follows:

1406 27-65-101. (1) The exemptions from the provisions of this
1407 chapter which are of an industrial nature or which are more
1408 properly classified as industrial exemptions than any other
1409 exemption classification of this chapter shall be confined to
1410 those persons or property exempted by this section or by the
1411 provisions of the Constitution of the United States or the State
1412 of Mississippi. No industrial exemption as now provided by any
1413 other section except Section 57-3-33 shall be valid as against the
1414 tax herein levied. Any subsequent industrial exemption from the
1415 tax levied hereunder shall be provided by amendment to this
1416 section. No exemption provided in this section shall apply to
1417 taxes levied by Section 27-65-15 or 27-65-21.

1418 The tax levied by this chapter shall not apply to the
1419 following:

1420 (a) Sales of boxes, crates, cartons, cans, bottles and
1421 other packaging materials to manufacturers and wholesalers for use



1422 as containers or shipping materials to accompany goods sold by
1423 said manufacturers or wholesalers where possession thereof will
1424 pass to the customer at the time of sale of the goods contained
1425 therein and sales to anyone of containers or shipping materials
1426 for use in ships engaged in international commerce.

1427 (b) Sales of raw materials, catalysts, processing
1428 chemicals, welding gases or other industrial processing gases
1429 (except natural gas) to a manufacturer for use directly in
1430 manufacturing or processing a product for sale or rental or
1431 repairing or reconditioning vessels or barges of fifty (50) tons
1432 load displacement and over. For the purposes of this exemption,
1433 electricity used directly in the electrolysis process in the
1434 production of sodium chlorate shall be considered a raw material.
1435 This exemption shall not apply to any property used as fuel except
1436 to the extent that such fuel comprises by-products which have no
1437 market value.

1438 (c) The gross proceeds of sales of dry docks, offshore
1439 drilling equipment for use in oil or natural gas exploration or
1440 production, vessels or barges of fifty (50) tons load displacement
1441 and over, when the vessels or barges are sold by the manufacturer
1442 or builder thereof. In addition to other types of equipment,
1443 offshore drilling equipment for use in oil or natural gas
1444 exploration or production shall include aircraft used
1445 predominately to transport passengers or property to or from
1446 offshore oil or natural gas exploration or production platforms or



1447 vessels, and engines, accessories and spare parts for such
1448 aircraft.

1449 (d) Sales to commercial fishermen of commercial fishing
1450 boats of over five (5) tons load displacement and not more than
1451 fifty (50) tons load displacement as registered with the United
1452 States Coast Guard and licensed by the Mississippi Commission on
1453 Marine Resources.

1454 (e) The gross income from repairs to vessels and barges
1455 engaged in foreign trade or interstate transportation.

1456 (f) Sales of petroleum products to vessels or barges
1457 for consumption in marine international commerce or interstate
1458 transportation businesses.

1459 (g) Sales and rentals of rail rolling stock (and
1460 component parts thereof) for ultimate use in interstate commerce
1461 and gross income from services with respect to manufacturing,
1462 repairing, cleaning, altering, reconditioning or improving such
1463 rail rolling stock (and component parts thereof).

1464 (h) Sales of raw materials, catalysts, processing
1465 chemicals, welding gases or other industrial processing gases
1466 (except natural gas) used or consumed directly in manufacturing,
1467 repairing, cleaning, altering, reconditioning or improving such
1468 rail rolling stock (and component parts thereof). This exemption
1469 shall not apply to any property used as fuel.

1470 (i) Sales of machinery or tools or repair parts
1471 therefor or replacements thereof, fuel or supplies used directly



1472 in manufacturing, converting or repairing ships, vessels or barges
1473 of three thousand (3,000) tons load displacement and over, but not
1474 to include office and plant supplies or other equipment not
1475 directly used on the ship, vessel or barge being built, converted
1476 or repaired. For purposes of this exemption, "ships, vessels or
1477 barges" shall not include floating structures described in Section
1478 27-65-18.

1479 (j) Sales of tangible personal property to persons
1480 operating ships in international commerce for use or consumption
1481 on board such ships. This exemption shall be limited to cases in
1482 which procedures satisfactory to the commissioner, ensuring
1483 against use in this state other than on such ships, are
1484 established.

1485 (k) Sales of materials used in the construction of a
1486 building, or any addition or improvement thereon, and sales of any
1487 machinery and equipment not later than three (3) months after the
1488 completion of construction of the building, or any addition
1489 thereon, to be used therein, to qualified businesses, as defined
1490 in Section 57-51-5, which are located in a county or portion
1491 thereof designated as an enterprise zone pursuant to Sections
1492 57-51-1 through 57-51-15.

1493 (l) Sales of materials used in the construction of a
1494 building, or any addition or improvement thereon, and sales of any
1495 machinery and equipment not later than three (3) months after the
1496 completion of construction of the building, or any addition



1497 thereon, to be used therein, to qualified businesses, as defined
1498 in Section 57-54-5.

1499 (m) Income from storage and handling of perishable
1500 goods by a public storage warehouse.

1501 (n) The value of natural gas lawfully injected into the
1502 earth for cycling, repressuring or lifting of oil, or lawfully
1503 vented or flared in connection with the production of oil;
1504 however, if any gas so injected into the earth is sold for such
1505 purposes, then the gas so sold shall not be exempt.

1506 (o) The gross collections from self-service commercial
1507 laundering, drying, cleaning and pressing equipment.

1508 (p) Sales of materials used in the construction of a
1509 building, or any addition or improvement thereon, and sales of any
1510 machinery and equipment not later than three (3) months after the
1511 completion of construction of the building, or any addition
1512 thereon, to be used therein, to qualified companies, certified as
1513 such by the Mississippi Development Authority under Section
1514 57-53-1.

1515 (q) Sales of component materials used in the
1516 construction of a building, or any addition or improvement
1517 thereon, sales of machinery and equipment to be used therein, and
1518 sales of manufacturing or processing machinery and equipment which
1519 is permanently attached to the ground or to a permanent foundation
1520 and which is not by its nature intended to be housed within a
1521 building structure, not later than three (3) months after the



1522 initial start-up date, to permanent business enterprises engaging
1523 in manufacturing or processing in Tier Three areas (as such term
1524 is defined in Section 57-73-21), which businesses are certified by
1525 the Department of Revenue as being eligible for the exemption
1526 granted in this paragraph (q). The exemption provided in this
1527 paragraph (q) shall not apply to sales to any business enterprise
1528 that is a medical cannabis establishment as defined in the
1529 Mississippi Medical Cannabis Act.

1530 (r) (i) Sales of component materials used in the
1531 construction of a building, or any addition or improvement
1532 thereon, and sales of any machinery and equipment not later than
1533 three (3) months after the completion of the building, addition or
1534 improvement thereon, to be used therein, for any company
1535 establishing or transferring its national or regional headquarters
1536 from within or outside the State of Mississippi and creating a
1537 minimum of twenty (20) jobs at the new headquarters in this state.
1538 The exemption provided in this subparagraph (i) shall not apply to
1539 sales for any company that is a medical cannabis establishment as
1540 defined in the Mississippi Medical Cannabis Act. The Department
1541 of Revenue shall establish criteria and prescribe procedures to
1542 determine if a company qualifies as a national or regional
1543 headquarters for the purpose of receiving the exemption provided
1544 in this subparagraph (i).

1545 (ii) Sales of component materials used in the
1546 construction of a building, or any addition or improvement



1547 thereon, and sales of any machinery and equipment not later than
1548 three (3) months after the completion of the building, addition or
1549 improvement thereon, to be used therein, for any company expanding
1550 or making additions after January 1, 2013, to its national or
1551 regional headquarters within the State of Mississippi and creating
1552 a minimum of twenty (20) new jobs at the headquarters as a result
1553 of the expansion or additions. The exemption provided in this
1554 subparagraph (ii) shall not apply to sales for any company that is
1555 a medical cannabis establishment as defined in the Mississippi
1556 Medical Cannabis Act. The Department of Revenue shall establish
1557 criteria and prescribe procedures to determine if a company
1558 qualifies as a national or regional headquarters for the purpose
1559 of receiving the exemption provided in this subparagraph (ii).

1560 (s) The gross proceeds from the sale of semitrailers,
1561 trailers, boats, travel trailers, motorcycles, all-terrain cycles
1562 and rotary-wing aircraft if exported from this state within
1563 forty-eight (48) hours and registered and first used in another
1564 state.

1565 (t) Gross income from the storage and handling of
1566 natural gas in underground salt domes and in other underground
1567 reservoirs, caverns, structures and formations suitable for such
1568 storage.

1569 (u) Sales of machinery and equipment to nonprofit
1570 organizations if the organization:



1571 (i) Is tax exempt pursuant to Section 501(c)(4) of
1572 the Internal Revenue Code of 1986, as amended;

1573 (ii) Assists in the implementation of the
1574 contingency plan or area contingency plan, and which is created in
1575 response to the requirements of Title IV, Subtitle B of the Oil
1576 Pollution Act of 1990, Public Law 101-380; and

1577 (iii) Engages primarily in programs to contain,
1578 clean up and otherwise mitigate spills of oil or other substances
1579 occurring in the United States coastal and tidal waters.

1580 For purposes of this exemption, "machinery and equipment"
1581 means any ocean-going vessels, barges, booms, skimmers and other
1582 capital equipment used primarily in the operations of nonprofit
1583 organizations referred to herein.

1584 (v) Sales or leases of materials and equipment to
1585 approved business enterprises as provided under the Growth and
1586 Prosperity Act.

1587 (w) From and after July 1, 2001, sales of pollution
1588 control equipment to manufacturers or custom processors for
1589 industrial use. For the purposes of this exemption, "pollution
1590 control equipment" means equipment, devices, machinery or systems
1591 used or acquired to prevent, control, monitor or reduce air, water
1592 or groundwater pollution, or solid or hazardous waste as required
1593 by federal or state law or regulation.

1594 (x) Sales or leases to a manufacturer of motor vehicles
1595 or powertrain components operating a project that has been



1596 certified by the Mississippi Major Economic Impact Authority as a
1597 project as defined in Section 57-75-5(f)(iv)1, Section
1598 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) of machinery and
1599 equipment; special tooling such as dies, molds, jigs and similar
1600 items treated as special tooling for federal income tax purposes;
1601 or repair parts therefor or replacements thereof; repair services
1602 thereon; fuel, supplies, electricity, coal and natural gas used
1603 directly in the manufacture of motor vehicles or motor vehicle
1604 parts or used to provide climate control for manufacturing areas.

1605 (y) Sales or leases of component materials, machinery
1606 and equipment used in the construction of a building, or any
1607 addition or improvement thereon to an enterprise operating a
1608 project that has been certified by the Mississippi Major Economic
1609 Impact Authority as a project as defined in Section
1610 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii)
1611 or Section 57-75-5(f)(xxviii) and any other sales or leases
1612 required to establish or operate such project.

1613 (z) Sales of component materials and equipment to a
1614 business enterprise as provided under Section 57-64-33.

1615 (aa) The gross income from the stripping and painting
1616 of commercial aircraft engaged in foreign or interstate
1617 transportation business.

1618 (bb) [Repealed]

1619 (cc) Sales or leases to an enterprise owning or
1620 operating a project that has been designated by the Mississippi



1621 Major Economic Impact Authority as a project as defined in Section
1622 57-75-5(f) (xviii) of machinery and equipment; special tooling such
1623 as dies, molds, jigs and similar items treated as special tooling
1624 for federal income tax purposes; or repair parts therefor or
1625 replacements thereof; repair services thereon; fuel, supplies,
1626 electricity, coal and natural gas used directly in the
1627 manufacturing/production operations of the project or used to
1628 provide climate control for manufacturing/production areas.

1629 (dd) Sales or leases of component materials, machinery
1630 and equipment used in the construction of a building, or any
1631 addition or improvement thereon to an enterprise owning or
1632 operating a project that has been designated by the Mississippi
1633 Major Economic Impact Authority as a project as defined in Section
1634 57-75-5(f) (xviii) and any other sales or leases required to
1635 establish or operate such project.

1636 (ee) Sales of parts used in the repair and servicing of
1637 aircraft not registered in Mississippi engaged exclusively in the
1638 business of foreign or interstate transportation to businesses
1639 engaged in aircraft repair and maintenance.

1640 (ff) Sales of component materials used in the
1641 construction of a facility, or any addition or improvement
1642 thereon, and sales or leases of machinery and equipment not later
1643 than three (3) months after the completion of construction of the
1644 facility, or any addition or improvement thereto, to be used in
1645 the building or any addition or improvement thereto, to a



1646 permanent business enterprise operating a data/information
1647 enterprise in Tier Three areas (as such areas are designated in
1648 accordance with Section 57-73-21), meeting minimum criteria
1649 established by the Mississippi Development Authority. The
1650 exemption provided in this paragraph (ff) shall not apply to sales
1651 to any business enterprise that is a medical cannabis
1652 establishment as defined in the Mississippi Medical Cannabis Act.

1653 (gg) Sales of component materials used in the
1654 construction of a facility, or any addition or improvement
1655 thereto, and sales of machinery and equipment not later than three
1656 (3) months after the completion of construction of the facility,
1657 or any addition or improvement thereto, to be used in the facility
1658 or any addition or improvement thereto, to technology intensive
1659 enterprises for industrial purposes in Tier Three areas (as such
1660 areas are designated in accordance with Section 57-73-21), as
1661 certified by the Department of Revenue. For purposes of this
1662 paragraph, an enterprise must meet the criteria provided for in
1663 Section 27-65-17(1)(f) in order to be considered a technology
1664 intensive enterprise.

1665 (hh) Sales of component materials used in the
1666 replacement, reconstruction or repair of a building or facility
1667 that has been destroyed or sustained extensive damage as a result
1668 of a disaster declared by the Governor, sales of machinery and
1669 equipment to be used therein to replace machinery or equipment
1670 damaged or destroyed as a result of such disaster, including, but



1671 not limited to, manufacturing or processing machinery and
1672 equipment which is permanently attached to the ground or to a
1673 permanent foundation and which is not by its nature intended to be
1674 housed within a building structure, to enterprises or companies
1675 that were eligible for the exemptions authorized in paragraph (q),
1676 (r), (ff) or (gg) of this subsection during initial construction
1677 of the building that was destroyed or damaged, which enterprises
1678 or companies are certified by the Department of Revenue as being
1679 eligible for the exemption granted in this paragraph.

1680 (ii) Sales of software or software services transmitted
1681 by the internet to a destination outside the State of Mississippi
1682 where the first use of such software or software services by the
1683 purchaser occurs outside the State of Mississippi.

1684 (jj) Gross income of public storage warehouses derived
1685 from the temporary storage of raw materials that are to be used in
1686 an eligible facility as defined in Section 27-7-22.35.

1687 (kk) Sales of component building materials and
1688 equipment for initial construction of facilities or expansion of
1689 facilities as authorized under Sections 57-113-1 through 57-113-7
1690 and Sections 57-113-21 through 57-113-27.

1691 (ll) Sales and leases of machinery and equipment
1692 acquired in the initial construction to establish facilities as
1693 authorized in Sections 57-113-1 through 57-113-7.



1694 (mm) Sales and leases of replacement hardware, software
1695 or other necessary technology to operate a data center as
1696 authorized under Sections 57-113-21 through 57-113-27.

1697 (nn) Sales of component materials used in the
1698 construction of a building, or any addition or improvement
1699 thereon, and sales or leases of machinery and equipment not later
1700 than three (3) months after the completion of the construction of
1701 the facility, to be used in the facility, to permanent business
1702 enterprises operating a facility producing renewable crude oil
1703 from biomass harvested or produced, in whole or in part, in
1704 Mississippi, which businesses meet minimum criteria established by
1705 the Mississippi Development Authority. As used in this paragraph,
1706 the term "biomass" shall have the meaning ascribed to such term in
1707 Section 57-113-1.

1708 (oo) Sales of supplies, equipment and other personal
1709 property to an organization that is exempt from taxation under
1710 Section 501(c)(3) of the Internal Revenue Code and is the host
1711 organization coordinating a professional golf tournament played or
1712 to be played in this state and the supplies, equipment or other
1713 personal property will be used for purposes related to the golf
1714 tournament and related activities.

1715 (pp) Sales of materials used in the construction of a
1716 health care industry facility, as defined in Section 57-117-3, or
1717 any addition or improvement thereon, and sales of any machinery
1718 and equipment not later than three (3) months after the completion



1719 of construction of the facility, or any addition thereon, to be
1720 used therein, to qualified businesses, as defined in Section
1721 57-117-3. This paragraph shall be repealed from and after July 1,
1722 2025.

1723 (qq) Sales or leases to a manufacturer of automotive
1724 parts operating a project that has been certified by the
1725 Mississippi Major Economic Impact Authority as a project as
1726 defined in Section 57-75-5(f) (xxviii) of machinery and equipment;
1727 or repair parts therefor or replacements thereof; repair services
1728 thereon; fuel, supplies, electricity, coal, nitrogen and natural
1729 gas used directly in the manufacture of automotive parts or used
1730 to provide climate control for manufacturing areas.

1731 (rr) Gross collections derived from guided tours on any
1732 navigable waters of this state, which include providing
1733 accommodations, guide services and/or related equipment operated
1734 by or under the direction of the person providing the tour, for
1735 the purposes of outdoor tourism. The exemption provided in this
1736 paragraph (rr) does not apply to the sale of tangible personal
1737 property by a person providing such tours.

1738 (ss) Retail sales of truck-tractors and semitrailers
1739 used in interstate commerce and registered under the International
1740 Registration Plan (IRP) or any similar reciprocity agreement or
1741 compact relating to the proportional registration of commercial
1742 vehicles entered into as provided for in Section 27-19-143.



1743 (tt) Sales exempt under the Facilitating Business Rapid
1744 Response to State Declared Disasters Act of 2015 (Sections
1745 27-113-1 through 27-113-9).

1746 (uu) Sales or leases to an enterprise and its
1747 affiliates operating a project that has been certified by the
1748 Mississippi Major Economic Impact Authority as a project as
1749 defined in Section 57-75-5(f)(xxix) of:

1750 (i) All personal property and fixtures, including
1751 without limitation, sales or leases to the enterprise and its
1752 affiliates of:

1753 1. Manufacturing machinery and equipment;

1754 2. Special tooling such as dies, molds, jigs
1755 and similar items treated as special tooling for federal income
1756 tax purposes;

1757 3. Component building materials, machinery
1758 and equipment used in the construction of buildings, and any other
1759 additions or improvements to the project site for the project;

1760 4. Nonmanufacturing furniture, fixtures and
1761 equipment (inclusive of all communications, computer, server,
1762 software and other hardware equipment); and

1763 5. Fuel, supplies (other than
1764 nonmanufacturing consumable supplies and water), electricity,
1765 nitrogen gas and natural gas used directly in the
1766 manufacturing/production operations of such project or used to



1767 provide climate control for manufacturing/production areas of such
1768 project;

1769 (ii) All replacements of, repair parts for or
1770 services to repair items described in subparagraph (i)1, 2 and 3
1771 of this paragraph; and

1772 (iii) All services taxable pursuant to Section
1773 27-65-23 required to establish, support, operate, repair and/or
1774 maintain such project.

1775 (vv) Sales or leases to an enterprise operating a
1776 project that has been certified by the Mississippi Major Economic
1777 Impact Authority as a project as defined in Section
1778 57-75-5(f) (xxx) of:

1779 (i) Purchases required to establish and operate
1780 the project, including, but not limited to, sales of component
1781 building materials, machinery and equipment required to establish
1782 the project facility and any additions or improvements thereon;
1783 and

1784 (ii) Machinery, special tools (such as dies,
1785 molds, and jigs) or repair parts thereof, or replacements and
1786 lease thereof, repair services thereon, fuel, supplies and
1787 electricity, coal and natural gas used in the manufacturing
1788 process and purchased by the enterprise owning or operating the
1789 project for the benefit of the project.

1790 (ww) Sales of component materials used in the
1791 construction of a building, or any expansion or improvement



1792 thereon, sales of machinery and/or equipment to be used therein,
1793 and sales of processing machinery and equipment which is
1794 permanently attached to the ground or to a permanent foundation
1795 which is not by its nature intended to be housed in a building
1796 structure, no later than three (3) months after initial startup,
1797 expansion or improvement of a permanent enterprise solely engaged
1798 in the conversion of natural sand into proppants used in oil and
1799 gas exploration and development with at least ninety-five percent
1800 (95%) of such proppants used in the production of oil and/or gas
1801 from horizontally drilled wells and/or horizontally drilled
1802 recompletion wells as defined in Sections 27-25-501 and 27-25-701.

1803 (xx) (i) Sales or leases to an enterprise operating a
1804 project that has been certified by the Mississippi Major Economic
1805 Impact Authority as a project as defined in Section
1806 57-75-5(f)(xxxi), for a period ending no later than one (1) year
1807 following completion of the construction of the facility or
1808 facilities comprising such project of all personal property and
1809 fixtures, including without limitation, sales or leases to the
1810 enterprise and its affiliates of:

- 1811 1. Manufacturing machinery and equipment;
1812 2. Special tooling such as dies, molds, jigs
1813 and similar items treated as special tooling for federal income
1814 tax purposes;



1815 3. Component building materials, machinery
1816 and equipment used in the construction of buildings, and any other
1817 additions or improvements to the project site for the project;

1818 4. Nonmanufacturing furniture, fixtures and
1819 equipment (inclusive of all communications, computer, server,
1820 software and other hardware equipment);

1821 5. Replacements of, repair parts for or
1822 services to repair items described in this subparagraph (i)1, 2
1823 and 3; and

1824 6. All services taxable pursuant to Section
1825 27-65-23 required to establish, support, operate, repair and/or
1826 maintain such project; and

1827 (ii) Sales or leases to an enterprise operating a
1828 project that has been certified by the Mississippi Major Economic
1829 Impact Authority as a project as defined in Section
1830 57-75-5(f)(xxxi) of electricity, current, power, steam, coal,
1831 natural gas, liquefied petroleum gas or other fuel, biomass,
1832 nitrogen or other atmospheric or other industrial gases used
1833 directly by the enterprise in the manufacturing/production
1834 operations of its project or used to provide climate control for
1835 manufacturing/production areas (which manufacturing/production
1836 areas shall be apportioned based on square footage). As used in
1837 this paragraph, the term "biomass" shall have the meaning ascribed
1838 to such term in Section 57-113-1.



1839 (yy) The gross proceeds from the sale of any item of
1840 tangible personal property by the manufacturer or custom processor
1841 thereof if such item is shipped, transported or exported from this
1842 state and first used in another state, whether such shipment,
1843 transportation or exportation is made by the seller, purchaser, or
1844 any third party acting on behalf of such party. For the purposes
1845 of this paragraph (yy), any instruction to, training of or
1846 inspection by the purchaser with respect to the item prior to
1847 shipment, transportation or exportation of the item shall not
1848 constitute a first use of such item within this state.

1849 (zz) (i) Sales or leases to an enterprise operating a
1850 project that has been certified by the Mississippi Major Economic
1851 Impact Authority as a project as defined in Section
1852 57-75-5(f)(xxxii), for a period ending no later than one (1) year
1853 following completion of the construction of the facility or
1854 facilities comprising such project of all personal property and
1855 fixtures, including, without limitation, sales or leases to the
1856 enterprise and its affiliates of:

- 1857 1. Manufacturing machinery and equipment;
- 1858 2. Special tooling such as dies, molds, jigs
1859 and similar items treated as special tooling for federal income
1860 tax purposes;
- 1861 3. Component building materials, machinery
1862 and equipment used in the construction of buildings, and any other
1863 additions or improvements to the project site for the project;



1864 4. Nonmanufacturing furniture, fixtures and
1865 equipment (inclusive of all communications, computer, server,
1866 software and other hardware equipment);

1867 5. Replacements of, repair parts for or
1868 services to repair items described in this subparagraph (i)1, 2
1869 and 3; and

1870 6. All services taxable pursuant to Section
1871 27-65-23 required to establish, support, operate, repair and/or
1872 maintain such project; and

1873 (ii) Sales or leases to an enterprise operating a
1874 project that has been certified by the Mississippi Major Economic
1875 Impact Authority as a project as defined in Section
1876 57-75-5(f)(xxxii) of electricity, current, power, steam, coal,
1877 natural gas, liquefied petroleum gas or other fuel, biomass,
1878 nitrogen or other atmospheric or other industrial gases used
1879 directly by the enterprise in the manufacturing/production
1880 operations of its project or used to provide climate control for
1881 manufacturing/production areas (which manufacturing/production
1882 areas shall be apportioned based on square footage). As used in
1883 this paragraph, the term "biomass" shall have the meaning ascribed
1884 to such term in Section 57-113-1.

1885 (aaa) Sales or leases to an enterprise and/or any
1886 affiliates thereof operating a project that has been certified by
1887 the Mississippi Major Economic Impact Authority as a project as
1888 defined in Section 57-75-5(f)(xxxiii) of:



1889 (i) Component building materials, fixtures,
1890 machinery and equipment used in the construction of a data
1891 processing facility or other buildings comprising all or part of a
1892 project, for a period ending no later than one (1) year following
1893 completion of the construction of the data processing facility or
1894 such other building; and

1895 (ii) All equipment and other personal property
1896 needed to establish and operate the project and any expansions
1897 thereof or additions thereto, including, but not limited to:

1898 1. Communications, computer, server,
1899 software, connectivity materials and equipment, emergency power
1900 generation equipment, other hardware equipment and any other
1901 technology;

1902 2. All replacements of, and repair parts for,
1903 such equipment or other personal property; and

1904 3. All services taxable pursuant to Section
1905 27-65-23 required to install, support, operate, repair and/or
1906 maintain the foregoing equipment and other personal property
1907 described in this subparagraph (ii).

1908 (2) Sales of component materials used in the construction of
1909 a building, or any addition or improvement thereon, sales of
1910 machinery and equipment to be used therein, and sales of
1911 manufacturing or processing machinery and equipment which is
1912 permanently attached to the ground or to a permanent foundation
1913 and which is not by its nature intended to be housed within a



1914 building structure, not later than three (3) months after the
1915 initial start-up date, to permanent business enterprises engaging
1916 in manufacturing or processing in Tier Two areas and Tier One
1917 areas (as such areas are designated in accordance with Section
1918 57-73-21), which businesses are certified by the Department of
1919 Revenue as being eligible for the exemption granted in this
1920 subsection, shall be exempt from one-half (1/2) of the taxes
1921 imposed on such transactions under this chapter. The exemption
1922 provided in this subsection (2) shall not apply to sales to any
1923 business enterprise that is a medical cannabis establishment as
1924 defined in the Mississippi Medical Cannabis Act.

1925 (3) Sales of component materials used in the construction of
1926 a facility, or any addition or improvement thereon, and sales or
1927 leases of machinery and equipment not later than three (3) months
1928 after the completion of construction of the facility, or any
1929 addition or improvement thereto, to be used in the building or any
1930 addition or improvement thereto, to a permanent business
1931 enterprise operating a data/information enterprise in Tier Two
1932 areas and Tier One areas (as such areas are designated in
1933 accordance with Section 57-73-21), which businesses meet minimum
1934 criteria established by the Mississippi Development Authority,
1935 shall be exempt from one-half (1/2) of the taxes imposed on such
1936 transaction under this chapter. The exemption provided in this
1937 subsection (3) shall not apply to sales to any business enterprise



1938 that is a medical cannabis establishment as defined in the
1939 Mississippi Medical Cannabis Act.

1940 (4) Sales of component materials used in the construction of
1941 a facility, or any addition or improvement thereto, and sales of
1942 machinery and equipment not later than three (3) months after the
1943 completion of construction of the facility, or any addition or
1944 improvement thereto, to be used in the building or any addition or
1945 improvement thereto, to technology intensive enterprises for
1946 industrial purposes in Tier Two areas and Tier One areas (as such
1947 areas are designated in accordance with Section 57-73-21), which
1948 businesses are certified by the Department of Revenue as being
1949 eligible for the exemption granted in this subsection, shall be
1950 exempt from one-half (1/2) of the taxes imposed on such
1951 transactions under this chapter. For purposes of this subsection,
1952 an enterprise must meet the criteria provided for in Section
1953 27-65-17(1)(f) in order to be considered a technology intensive
1954 enterprise.

1955 (5) (a) For purposes of this subsection:

1956 (i) "Telecommunications enterprises" shall have
1957 the meaning ascribed to such term in Section 57-73-21;

1958 (ii) "Tier One areas" mean counties designated as
1959 Tier One areas pursuant to Section 57-73-21;

1960 (iii) "Tier Two areas" mean counties designated as
1961 Tier Two areas pursuant to Section 57-73-21;



1962 (iv) "Tier Three areas" mean counties designated
1963 as Tier Three areas pursuant to Section 57-73-21; and

1964 (v) "Equipment used in the deployment of broadband
1965 technologies" means any equipment capable of being used for or in
1966 connection with the transmission of information at a rate, prior
1967 to taking into account the effects of any signal degradation, that
1968 is not less than three hundred eighty-four (384) kilobits per
1969 second in at least one (1) direction, including, but not limited
1970 to, asynchronous transfer mode switches, digital subscriber line
1971 access multiplexers, routers, servers, multiplexers, fiber optics
1972 and related equipment.

1973 (b) Sales of equipment to telecommunications
1974 enterprises after June 30, 2003, and before July 1, 2025, that is
1975 installed in Tier One areas and used in the deployment of
1976 broadband technologies shall be exempt from one-half (1/2) of the
1977 taxes imposed on such transactions under this chapter.

1978 (c) Sales of equipment to telecommunications
1979 enterprises after June 30, 2003, and before July 1, 2025, that is
1980 installed in Tier Two and Tier Three areas and used in the
1981 deployment of broadband technologies shall be exempt from the
1982 taxes imposed on such transactions under this chapter.

1983 (6) Sales of component materials used in the replacement,
1984 reconstruction or repair of a building that has been destroyed or
1985 sustained extensive damage as a result of a disaster declared by
1986 the Governor, sales of machinery and equipment to be used therein



1987 to replace machinery or equipment damaged or destroyed as a result
1988 of such disaster, including, but not limited to, manufacturing or
1989 processing machinery and equipment which is permanently attached
1990 to the ground or to a permanent foundation and which is not by its
1991 nature intended to be housed within a building structure, to
1992 enterprises that were eligible for the partial exemptions provided
1993 for in subsections (2), (3) and (4) of this section during initial
1994 construction of the building that was destroyed or damaged, which
1995 enterprises are certified by the Department of Revenue as being
1996 eligible for the partial exemption granted in this subsection,
1997 shall be exempt from one-half (1/2) of the taxes imposed on such
1998 transactions under this chapter.

1999 **SECTION 17.** Section 29-7-3, Mississippi Code of 1972, is
2000 brought forward as follows:

2001 29-7-3. There shall be no development or extraction of oil,
2002 gas, or other minerals from state-owned lands by any private party
2003 without first obtaining a mineral lease therefor from the
2004 commission. The commission is hereby authorized and empowered,
2005 for and on behalf of the state, to lease any and all of the state
2006 land now owned (including that submerged or wherever the tide may
2007 ebb and flow) or hereafter acquired, to some reputable person,
2008 association, or company for oil and/or gas and/or other minerals
2009 in and under and which may be produced therefrom, excepting,
2010 however, sixteenth section school land, lieu lands, and such
2011 forfeited tax land and property the title to which is subject to



2012 any lawful redemption, for such consideration and upon such terms
2013 and conditions as the commission deems just and proper. No
2014 mineral lease of offshore lands shall allow offshore drilling
2015 operations north of the coastal barrier islands, except in Blocks
2016 40, 41, 42, 43, 63, 64 and 66 through 98, inclusive. Further,
2017 surface offshore drilling operations will not be allowed within
2018 one (1) mile of Cat Island. The commission may only offer for
2019 lease the state-owned lands in Blocks 40, 41, 42, 43, 63, 64 and
2020 66 through 98, inclusive, as shown on the Mississippi Department
2021 of Environmental Quality Bureau of Geology Plat of Lease Blocks
2022 (Open File Report 151) on terms and conditions and for a length of
2023 time as determined by the commission. The commission may not
2024 lease any lands or submerged lands off the Mississippi Gulf Coast
2025 that have been leased by the Department of Marine Resources before
2026 January 1, 2004, for any public or private oyster reef lease or
2027 any lands or submerged lands within one (1) mile of that lease for
2028 the purposes of drilling offshore for oil, gas and other minerals.

2029 Consistent with the conservation policies of this state under
2030 Section 53-1-1 et seq., the commission may offer for public bid
2031 any tracts or blocks of state-owned lands not currently under
2032 lease, which have been identified to the commission as having
2033 development potential for oil or natural gas, not less than once a
2034 year. Upon consultation with the Office of Geology in the
2035 Mississippi Department of Environmental Quality, the Secretary of
2036 State and any other state agency as the commission deems



2037 appropriate, the commission shall promulgate rules and regulations
2038 consistent with this chapter governing all aspects of the process
2039 of leasing state lands within its jurisdiction for mineral
2040 development, including the setting of all terms of the lease form
2041 to be used for leasing state-owned lands, any necessary fees,
2042 public bidding process, delay rental payments, shut-in royalty
2043 payments, and such other provisions as may be required. The
2044 Attorney General shall review the lease form adopted by the
2045 commission for legal sufficiency.

2046 There shall not be conducted any seismographic or other
2047 mineral exploration or testing activities on any state-owned lands
2048 within the mineral leasing jurisdiction of the commission without
2049 first obtaining a permit therefor from the commission. Upon
2050 consultation with the Office of Geology in the Mississippi
2051 Department of Environmental Quality, the Secretary of State and
2052 any other state agency as the commission deems appropriate, the
2053 commission shall promulgate rules and regulations governing all
2054 aspects of seismographic or other mineral exploration activity on
2055 state lands within its jurisdiction, including the establishing of
2056 fees and issuance of permits for the conduct of such mineral
2057 exploration activities. The Attorney General shall review the
2058 permit form adopted by the commission for legal sufficiency.
2059 Provided, however, that persons obtaining permits from the
2060 commission for seismographic or other mineral exploration or
2061 testing activities on state-owned wildlife management areas, lakes



2062 and fish hatcheries, shall be subject to rules and regulations
2063 promulgated therefor by the Mississippi Commission on Wildlife,
2064 Fisheries and Parks which shall also receive all permit fees for
2065 such testing on said lands. In addition, persons obtaining
2066 permits from the commission for seismographic or other mineral
2067 exploration or testing activities on state-owned marine waters
2068 shall be subject to rules and regulations promulgated therefor by
2069 the Mississippi Department of Marine Resources which shall also
2070 receive all permit fees for such testing on those waters.

2071 Further, provided that each permit within the Mississippi
2072 Sound or tidelands shall be reviewed by the Mississippi Commission
2073 on Marine Resources and such special conditions as it may specify
2074 will be included in the permit. Information or data obtained in
2075 any mineral exploration activity on any and all state lands shall
2076 be disclosed to the state through the commission, upon demand.
2077 Such information or data shall be treated as confidential for a
2078 period of ten (10) years from the date of receipt thereof and
2079 shall not be disclosed to the public or to any firm, individual or
2080 agency other than officials or authorized employees of this state.
2081 Any person who makes unauthorized disclosure of such confidential
2082 information or data shall be guilty of a misdemeanor, and upon
2083 conviction thereof, be fined not more than Five Thousand Dollars
2084 (\$5,000.00) or imprisoned in the county jail not more than one (1)
2085 year, or both.



2086 Whenever any such land or property is leased for oil and gas
2087 and/or other minerals, such lease contract shall provide for a
2088 lease royalty to the state of at least three-sixteenths (3/16) of
2089 such oil and gas or other minerals, same to be paid in the manner
2090 prescribed by the commission. Of the monies received in
2091 connection with the execution of such leases, five-tenths of one
2092 percent (5/10 of 1%) shall be retained in a special fund to be
2093 appropriated by the Legislature, One Hundred Thousand Dollars
2094 (\$100,000.00) of which amount to be used by the commission for the
2095 administration of the leasing and permitting under this section,
2096 and the remainder of such amount shall be deposited into the
2097 Education Trust Fund, created in Section 206A, Mississippi
2098 Constitution of 1890; and two percent (2%) shall be paid into a
2099 special fund to be designated as the "Gulf and Wildlife Protection
2100 Fund," to be appropriated by the Legislature, one-half (1/2)
2101 thereof to be apportioned as follows: an amount which shall not
2102 exceed One Million Dollars (\$1,000,000.00) shall be used by the
2103 Mississippi Department of Wildlife, Fisheries and Parks and the
2104 Mississippi Department of Marine Resources solely for the purpose
2105 of cleanup, remedial or abatement actions involving pollution as a
2106 result of the exploration or production of oil or gas, and any
2107 amount in excess of such One Million Dollars (\$1,000,000.00) shall
2108 be deposited into the Education Trust Fund, created in Section
2109 206A, Mississippi Constitution of 1890. The remaining one-half
2110 (1/2) of such Gulf and Wildlife Protection Fund to be apportioned



2111 as follows: an amount which shall not exceed One Million Dollars
2112 (\$1,000,000.00) shall be used by the Mississippi Commission on
2113 Wildlife, Fisheries and Parks and the Mississippi Department of
2114 Marine Resources for use first in the prudent management,
2115 preservation, protection and conservation of existing waters,
2116 lands and wildlife of this state and then, provided such purposes
2117 are accomplished, for the acquisition of additional waters and
2118 lands and any amount in excess of such One Million Dollars
2119 (\$1,000,000.00) shall be deposited into the Education Trust Fund,
2120 created in Section 206A, Mississippi Constitution of 1890.
2121 However, in the event that the Legislature is not in session to
2122 appropriate funds from the Gulf and Wildlife Protection Fund for
2123 the purpose of cleanup, remedial or abatement actions involving
2124 pollution as a result of the exploration or production of oil or
2125 gas, then the Mississippi Department of Wildlife, Fisheries and
2126 Parks and the Mississippi Department of Marine Resources may make
2127 expenditures from this special fund account solely for said
2128 purpose. The commission may lease the submerged beds for sand and
2129 gravel on such a basis as it may deem proper, but where the waters
2130 lie between this state and an adjoining state, there must be a
2131 cash realization to this state, including taxes paid for such sand
2132 and gravel, equal to that being had by such adjoining state, in
2133 all cases the requisite consents therefor being lawfully obtained
2134 from the United States.



2135 The Department of Environmental Quality is authorized to
2136 employ competent engineering personnel to survey the territorial
2137 waters of this state in the Mississippi Sound and the Gulf of
2138 Mexico and to prepare a map or plat of such territorial waters,
2139 divided into blocks of not more than six thousand (6,000) acres
2140 each with coordinates and reference points based upon longitude
2141 and latitude surveys. The commission is authorized to adopt such
2142 survey, plat or map for leasing of such submerged lands for
2143 mineral development; and such leases may, after the adoption of
2144 such plat or map, be made by reference to the map or plat, which
2145 shall be on permanent file with the commission and a copy thereof
2146 on file in the Office of the State Oil and Gas Board.

2147 **SECTION 18.** Section 29-15-1, Mississippi Code of 1972, is
2148 brought forward as follows:

2149 29-15-1. (a) "Commission" means the Mississippi Commission
2150 on Marine Resources.

2151 (b) "Local tidal datum" means the datum established for a
2152 specific tide station through the use of tidal observations made
2153 at that station.

2154 (c) "Mean high water" means the arithmetic mean of all the
2155 high waters occurring in a particular nineteen-year tidal epoch
2156 period; or for a shorter period of time after corrections are
2157 applied to the short term observations to reduce these values to
2158 the equivalent nineteen-year value.



2159 (d) "Mean high water line" means the intersection of the
2160 tidal datum plane of mean high water with the shore.

2161 (e) "Mean high water survey" means a survey of the
2162 intersection of the shoreline with the tidal datum plane of mean
2163 high water using local tidal datums and surveying methodologies
2164 approved by the commission. Methodologies shall include but not
2165 be limited to the "staking method," "the topographic method" and
2166 "tide coordinated aerial photography."

2167 (f) "National map accuracy standards" means a set of
2168 guidelines published by the Office of Management and Budget of the
2169 United States to which maps produced by the United States
2170 government adhere.

2171 (g) "Submerged lands" means lands which remain covered by
2172 waters, where the tides ebb and flow, at ordinary low tides.

2173 (h) "Tidelands" means those lands which are daily covered
2174 and uncovered by water by the action of the tides, up to the mean
2175 line of the ordinary high tides.

2176 **SECTION 19.** Section 33-15-1, Mississippi Code of 1972, is
2177 brought forward as follows:

2178 33-15-1. This article may be cited as the "Mississippi
2179 Emergency Management Law."

2180 **SECTION 20.** Section 37-138-27, Mississippi Code of 1972, is
2181 brought forward as follows:

2182 37-138-27. (1) Any person found by the commission to have
2183 violated any of the provisions of this chapter or any rule or



2184 regulation or written order of the commission in pursuance thereof
2185 or any certificate issued pursuant to this chapter shall be
2186 subject to (a) a civil penalty of not more than Twenty-five
2187 Thousand Dollars (\$25,000.00) for each violation, such penalty to
2188 be assessed and levied by order of the commission after notice and
2189 hearing in accordance with subsection (5) below of this section,
2190 and (b) a reprimand or a suspension or revocation of any
2191 certificate issued to the person pursuant to this chapter, such
2192 reprimand, suspension or revocation to be assessed and levied by
2193 order of the commission after notice and hearing as provided in
2194 subsection (5) below of this section.

2195 (2) In lieu of, or in addition to, the penalty provided for
2196 in subsection (1)(a) of this section, the commission shall have
2197 power to institute and maintain in the name of the state any and
2198 all proceedings necessary or appropriate to enforce the provisions
2199 of this chapter, rules and regulations enforced pursuant thereto,
2200 and orders and certificates issued pursuant to this chapter in the
2201 appropriate circuit, chancery, county or justice court of the
2202 county in which venue may lie. The commission may obtain
2203 mandatory or prohibitory injunctive relief, either temporary or
2204 permanent, and it shall not be necessary in such cases that the
2205 state plead or prove: (a) that irreparable damage would result if
2206 the injunction did not issue; (b) that there is no adequate remedy
2207 at law; or (c) that a written complaint or commission order has
2208 first been issued for the alleged violation.



2209 (3) Any person who knowingly submits false or inaccurate
2210 information in support of an application for issuance or renewal
2211 of a certificate under this chapter or who willfully fails to
2212 comply with the conditions of the certificate issued by the
2213 commission or who willfully violates this chapter, or any rule,
2214 regulation or written order of the commission or emergency order
2215 issued by the director in pursuance thereof shall, upon
2216 conviction, be guilty of a misdemeanor and fined not less than One
2217 Hundred Dollars (\$100.00) within the discretion of the court. Each
2218 day in which such violation exists or continues shall constitute a
2219 separate offense.

2220 (4) In addition to or in lieu of filing a criminal complaint
2221 for such willful misconduct described in subsection (3) of this
2222 section, the commission may impose a civil penalty in accordance
2223 with subsection (1)(a) of this section, and shall impose a
2224 reprimand or a suspension or revocation of any certificate in
2225 accordance with subsection (1)(b) of this section.

2226 (5) All proceedings and hearings before the commission
2227 regarding violations of this chapter or any rule or regulation,
2228 written order of the commission, emergency order of the director
2229 or certificate issued or renewed by the commission in pursuance
2230 thereof or any certificate issued pursuant to this chapter and all
2231 appeals therefrom shall be conducted in accordance with Sections
2232 49-17-31 through 49-17-41, Mississippi Code of 1972.



2233 (6) All fines, penalties and other sums recovered or
2234 collected by the commission for and on behalf of the state under
2235 this section shall be deposited in the Pollution Emergency Fund
2236 established under Section 49-17-68, Mississippi Code of 1972, and
2237 the commission is authorized to receive and accept, from any funds
2238 and all available sources whatsoever, additional funds to be
2239 deposited in such fund and expended for the purpose of remedial,
2240 clean-up, or abatement actions involving pollution of the land,
2241 air or waters of the state in violation of Sections 49-17-1
2242 through 49-17-43, Mississippi Code of 1972, any rule or regulation
2243 or written order of the commission in pursuance thereof, or any
2244 condition or limitation of a permit.

2245 **SECTION 21.** Section 41-67-2, Mississippi Code of 1972, is
2246 brought forward as follows:

2247 41-67-2. For purposes of this chapter, the following words
2248 shall have the meanings ascribed herein unless the context clearly
2249 indicates otherwise:

2250 (a) "Advanced treatment system" means an individual
2251 on-site wastewater treatment system that complies with Section
2252 41-67-10.

2253 (b) "Board" means the Mississippi State Board of
2254 Health.

2255 (c) "Centralized wastewater treatment system" means a
2256 wastewater collection and treatment system that consists of



2257 collection sewers and a centralized treatment facility other than
2258 an individual on-site wastewater disposal system.

2259 (d) "Certified installer" means any person who has met
2260 the requirements of Section 41-67-25.

2261 (e) "Certified manufacturer" means any person
2262 registered with the department who holds a written certification
2263 issued by the department allowing the manufacturer to sell on-site
2264 wastewater products in the state.

2265 (f) "Certified professional evaluator" means any person
2266 who has met the requirements of Section 41-67-37 or a licensed
2267 professional engineer.

2268 (g) "Certified pumper" means any person registered with
2269 the department who holds a written certification issued by the
2270 department allowing the person to engage in the removal and
2271 disposal of sludge, grease and waste and who has met the
2272 requirements of Section 41-67-39.

2273 (h) "Cluster system" means a wastewater collection and
2274 treatment system under some form of common or private ownership
2275 and management that provides treatment and dispersal/discharge of
2276 wastewater from two (2) or more homes or buildings but less than a
2277 subdivision.

2278 (i) "Conventional system" means an individual on-site
2279 wastewater disposal system consisting of a septic tank and
2280 subsurface disposal field.



2281 (j) "Department" means the Mississippi State Department
2282 of Health.

2283 (k) "Decentralized wastewater treatment system" means
2284 any commercial wastewater treatment for fewer than ten (10) lots.

2285 (l) "Effluent" means sewage, water, or other liquid,
2286 partially or completely treated or in its natural state, flowing
2287 out of a septic tank, advanced treatment system, or other
2288 treatment system or system component by the department.

2289 (m) "Final approval" means an issuance of a document
2290 from the department stating that a determination has been made by
2291 the department that the individual on-site wastewater disposal
2292 system recommended/designed has been installed and fulfills all
2293 requirements under this chapter or any variance that has been
2294 granted by the department.

2295 (n) "Generator" means any person whose act or process
2296 produces sewage or other material suitable for disposal in an
2297 individual on-site wastewater disposal system.

2298 (o) "Individual on-site wastewater disposal system"
2299 means a sewage treatment and effluent disposal system that does
2300 not discharge into waters of the state, that serves only one (1)
2301 legal tract, that accepts only residential waste and similar waste
2302 streams maintained on the property of the generator, and that is
2303 designed and installed in accordance with this law and regulations
2304 of the board.



2305 (p) "Notice of intent" means notification by an
2306 applicant to the department prior to construction and submission
2307 of all required information, which is used by the department to
2308 initiate the process to evaluate the property for the suitability
2309 of an individual on-site wastewater disposal system.

2310 (q) "Performance-based system" means an individual
2311 on-site wastewater disposal system designed to meet standards
2312 established to designate a level of treatment of wastewater that
2313 an individual on-site wastewater disposal system must meet,
2314 including, but not limited to, biochemical oxygen demand, total
2315 suspended solids, nutrient reduction and fecal coliform.

2316 (r) "Permit/recommendation" means that a person has
2317 filed a notice of intent with the department and the department
2318 has made a determination of the suitability of the property for
2319 the use of an individual on-site wastewater disposal system.

2320 (s) "Person" means any individual, trust, firm,
2321 joint-stock company, public or private corporation (including a
2322 government corporation), partnership, association, state, or any
2323 agency or institution thereof, municipality, commission, political
2324 subdivision of a state or any interstate body, and includes any
2325 officer or governing or managing body of any municipality,
2326 political subdivision, or the United States or any officer or
2327 employee thereof.

2328 (t) "Plot plan" means a property drawing reflecting
2329 property lines, site features (such as ponds, wells, etc.),



2330 dwellings and any other intended uses of the property therein
2331 including encumbrances.

2332 (u) "Property of the generator" means land owned by or
2333 under permanent legal easement or lease to the generator.

2334 (v) "Qualified homeowner maintenance provider" means
2335 the current owner of a specific residence where that homeowner
2336 resides and where the homeowner has met the requirements of the
2337 rules and regulations of the department to provide maintenance for
2338 his or her system.

2339 (w) "Licensed professional engineer" means any person
2340 who has met the requirements under Section 73-13-23(1) and who has
2341 been issued a certificate of registration as a professional
2342 engineer.

2343 (x) "Septage" means the liquid, solid, and semisolid
2344 material that results from wastewater pretreatment in a septic
2345 tank, portable toilet, or grease trap, which must be pumped,
2346 hauled, treated and disposed of properly.

2347 (y) "Subdivision" means any tract or combination of
2348 adjacent tracts of land that is subdivided into ten (10) or more
2349 tracts, sites or parcels for the purpose of commercial or
2350 residential development.

2351 **SECTION 22.** Section 49-1-29, Mississippi Code of 1972, is
2352 brought forward as follows:

2353 49-1-29. (1) The commission may promulgate rules and
2354 regulations, inaugurate studies and surveys, and establish any



2355 services it deems necessary to carry out wildlife laws. A
2356 violation of any rules or regulations promulgated by the
2357 commission shall constitute a misdemeanor and shall be punished as
2358 provided in Section 49-7-101.

2359 (2) The executive director shall have authority with
2360 commission approval:

2361 (a) To close or shorten the open season as prescribed
2362 by law in cases of urgent emergency on any species of game birds,
2363 game or fur-bearing animals, reptiles, fish or amphibians, in any
2364 locality, when it finds after investigation and public review that
2365 the action is reasonably necessary to secure the perpetuation of
2366 any species of game birds, game or fur-bearing animals, reptiles,
2367 fish or amphibians and to maintain an adequate supply in the
2368 affected area. The statutes shall continue in full force and
2369 effect, except as restricted and limited by the rules and
2370 regulations promulgated by the commission.

2371 (b) To designate wildlife refuges, with the consent of
2372 the property owner or owners, in any localities it finds necessary
2373 to secure perpetuation of any species of game birds, game or
2374 fur-bearing animals, reptiles, fish or amphibians and to maintain
2375 an adequate supply for the purpose of providing a safe retreat
2376 where the animals may rest and replenish adjacent hunting,
2377 trapping or fishing grounds or waters, and to approve land
2378 suitable for such purposes as eligible for the income tax credit
2379 authorized under Section 27-7-22.22.



2380 (c) To acquire and hold for the state by purchase,
2381 condemnation, lease, or agreement as authorized from time to time
2382 by the Legislature, and to receive by gifts or devise, lands or
2383 water suitable for fish habitats, game and bird habitats, state
2384 parks, access sites, wildlife refuges, or for public shooting,
2385 trapping or fishing grounds or waters, to provide areas on which
2386 any citizen may hunt, trap or fish under any special regulations
2387 as the commission may prescribe, and to approve lands suitable for
2388 such purposes as eligible for the income tax credit authorized
2389 under Section 27-7-22.22.

2390 (d) To extend and consolidate lands or waters suitable
2391 for the above purposes by exchange of lands or waters under its
2392 jurisdiction.

2393 (e) To capture, propagate, transport, sell or exchange
2394 any species of game birds, game or fur-bearing animals, reptiles,
2395 fish or amphibians needed for stocking or restocking any lands or
2396 waters of the state.

2397 (f) To enter into cooperative agreements with persons,
2398 firms, corporations or governmental agencies for purposes
2399 consistent with this chapter.

2400 (g) To regulate the burning of rubbish, slashings and
2401 marshes or other areas it may find reasonably necessary to reduce
2402 the danger of destructive fires.

2403 (h) To conduct research in improved wildlife and
2404 fisheries conservation methods and to disseminate information to



2405 the residents of the state through the schools, public media and
2406 other publications.

2407 (i) To have exclusive charge and control of the
2408 propagation and distribution of wild birds, animals, reptiles,
2409 fish and amphibians, the conduct and control of hatcheries,
2410 biological stations and game and fur farms owned or acquired by
2411 the state; to expend for the protection, propagation or
2412 preservation of game birds, game or fur-bearing animals, reptiles,
2413 fish and amphibians all funds of the state acquired for this
2414 purpose arising from licenses, gifts or otherwise; and shall have
2415 charge of the enforcement of all wildlife laws.

2416 (j) To grant permits and provide regulations for field
2417 trials and dog trainers.

2418 (k) To prohibit and to regulate the taking of nongame
2419 gross fish, except minnows.

2420 (l) To enter into agreements with landowners to trap
2421 and purchase quail on the premises of the landowner and to provide
2422 for the distribution of quail.

2423 (m) To operate or lease to third persons concessions or
2424 other rights or privileges on lakes owned or leased by the
2425 department. Owners of land adjoining land owned or leased by the
2426 department shall have priority to the concessions or rights or
2427 privileges, if the owners meet the qualifications established by
2428 the commission.



2429 (n) To implement a beaver control program and to charge
2430 fees, upon the recommendation of the Beaver Control Advisory
2431 Board, to landowners participating in the beaver control program
2432 described in Section 49-7-201.

2433 (o) To apply for, receive and expend any federal, state
2434 or local funds, contributions or funds from any other source for
2435 the purpose of beaver control or eradication.

2436 (p) To require the department to divide the districts
2437 into zones if necessary, and periodically survey the districts or
2438 zones to obtain information that is necessary to properly
2439 determine the population and allowable harvest limits of wildlife
2440 within the district or zone.

2441 (q) To grant wildlife personnel access to enter the
2442 enclosure and utilize the best collection methods available to
2443 obtain tissue samples for testing where CWD has been diagnosed
2444 within five (5) miles of the enclosure.

2445 If CWD is detected within an enclosure, the commission shall
2446 not declare surrounding or adjoining properties within a five (5)
2447 mile radius of the enclosure, a CWD Management Zone, until chronic
2448 wasting disease is positively detected within such radius on these
2449 surrounding or adjoining properties.

2450 **SECTION 23.** Section 49-2-13, Mississippi Code of 1972, is
2451 brought forward as follows:

2452 49-2-13. The executive director shall have the following
2453 powers and duties:



2454 (a) To administer the policies of the commission within
2455 the authority granted by the commission;

2456 (b) To supervise and direct all administrative and
2457 technical activities of the department;

2458 (c) To organize the administrative units of the
2459 department in accordance with the plan adopted by the commission
2460 and, with commission approval, alter such organizational plan and
2461 reassign responsibilities as he may deem necessary to carry out
2462 the policies of the commission;

2463 (d) To coordinate the activities of the various offices
2464 of the department;

2465 (e) To employ, subject to the approval of the
2466 commission, qualified professional personnel in the subject matter
2467 or fields of each office, and such other technical and clerical
2468 staff as may be required for the operation of the department;

2469 (f) To recommend to the commission such studies and
2470 investigations as he may deem appropriate, and to carry out the
2471 approved recommendations in conjunction with the various offices;

2472 (g) To merge and coordinate functions and duties where
2473 possible to eliminate the possibility of two (2) separate
2474 organizational entities performing the same or similar functions,
2475 including, but not limited to, functions of audit, inspection,
2476 collection, personnel, motor vehicles, accounting, data
2477 processing, payroll and any other such administrative, procedural
2478 or enforcement function;



2479 (h) To coordinate all studies in the State of
2480 Mississippi concerned with the supply, development, use and
2481 conservation of natural resources within the jurisdiction of the
2482 department;

2483 (i) To prepare and deliver to the Legislature and the
2484 Governor on or before January 1 of each year, and at such other
2485 times as may be required by the Legislature or Governor, a full
2486 report of the work of the department and the offices thereof,
2487 including a detailed statement of expenditures of the department
2488 and any recommendations the commission may have;

2489 (j) To issue, modify or revoke any and all orders under
2490 authority granted by the commission which include, but are not
2491 limited to those which (i) prohibit, control or abate discharges
2492 of contaminants and wastes into the air and waters of the state;
2493 (ii) require the construction of new disposal systems or
2494 air-cleaning devices or any parts thereof, or the modification,
2495 extension or alteration of existing disposal systems or
2496 air-cleaning devices or any parts thereof, or the adoption of
2497 other remedial measures to prevent, control or abate air and water
2498 pollution or to cause the proper management of solid wastes; (iii)
2499 impose penalties pursuant to Section 17-17-29 and Section 49-17-43
2500 which have been agreed upon with alleged violators; and (iv)
2501 require compliance with the conditions of any permit issued by the
2502 Permit Board created in Section 49-17-28 and all regulations of
2503 the commission; and



2504 (k) With the approval of the commission, to enter into
2505 contracts, grants and cooperative agreements with any federal or
2506 state agency or subdivision thereof, or any public or private
2507 institution located inside or outside the State of Mississippi, or
2508 any person, corporation or association in connection with carrying
2509 out the provisions of this chapter, provided the agreements do not
2510 have a financial cost in excess of the amounts appropriated for
2511 such purposes by the Legislature.

2512 **SECTION 24.** Section 49-7-9, Mississippi Code of 1972, is
2513 brought forward as follows:

2514 49-7-9. (1) (a) Each resident of the State of Mississippi,
2515 as defined in Section 49-7-3, fishing in the public fresh waters
2516 of the state, including lakes and reservoirs, but not including
2517 privately owned ponds and streams, shall purchase a combination
2518 small game hunting and fishing license as provided in Section
2519 49-7-5 for Ten Dollars (\$10.00). Any resident purchasing a
2520 license as prescribed in this subsection shall be entitled to
2521 fish, in accordance with the regulations and ordinances of the
2522 commission, in all public fresh waters within the territory of the
2523 State of Mississippi.

2524 (b) A resident may purchase a resident fishing license
2525 valid for a period of three (3) days for the sum of Three Dollars
2526 (\$3.00).

2527 (c) No license shall be required of any resident
2528 citizen of the State of Mississippi who has not reached the age of



2529 sixteen (16) years or who has reached the age of sixty-five (65)
2530 years or who is blind, paraplegic, a multiple amputee or has been
2531 adjudged by the Veterans Administration as having a total
2532 service-connected disability, or has been adjudged totally
2533 disabled by the Social Security Administration. Such person shall
2534 not be required to purchase or have in his possession a hunting or
2535 fishing license while engaged in such activities.

2536 (d) A person exempt by reason of age, total
2537 service-connected disability as adjudged by the Veterans
2538 Administration or total disability as adjudged by the Social
2539 Security Administration or who is blind, paraplegic or a multiple
2540 amputee, shall have in their possession and on their person proof
2541 of their age, residency, disability status or other respective
2542 physical impairment while engaged in the activities of hunting or
2543 fishing.

2544 (e) Any resident who is a member of the Armed Forces,
2545 including the Reserves and National Guard, and on active duty
2546 outside the State of Mississippi is not required to purchase or
2547 have in his possession a hunting or fishing license while engaged
2548 in such activities on leave from active duty. Such resident shall
2549 have in his possession and on his person such proof as may be
2550 required by the commission.

2551 (f) The requirement for purchasing and/or having a
2552 hunting or fishing license authorized in this subsection (1) may
2553 be waived for any resident or nonresident who is an honorably



2554 discharged veteran with a combat-related disability and who will
2555 be participating in a special hunt, fishing trip or other outdoor
2556 recreational event that is available only to such persons as
2557 determined by the entity sponsoring the event. The commission is
2558 authorized to establish such criteria and/or procedures for an
2559 organization to be recognized as a sanctioned entity that provides
2560 unique outdoor recreational opportunities for wounded or disabled
2561 veterans. Any events sponsored by a recognized organization, and
2562 the persons participating in such event, shall be entitled to the
2563 waiver set forth above without further action on the part of the
2564 commission or the sponsoring organization.

2565 (2) (a) All persons fishing in privately owned lakes or
2566 ponds shall have specific permission to do so from the owner of
2567 such lake or pond.

2568 (b) Residents do not need a fishing license to fish in
2569 those waters, except when the owner of the lake or pond charges a
2570 fee for fishing, then a resident must have a fishing license to
2571 fish in those waters unless exempted under subsection (1) of this
2572 section.

2573 (3) The first weekend of "National Fishing and Boating Week"
2574 in June of each year is designated as "Free Fishing Weekend."
2575 July 4 is designated as "Free Fishing Day." Any person may sport
2576 fish without a license on "Free Fishing Weekend," and on "Free
2577 Fishing Day."



2578 (4) Any person authorized to issue any license under this
2579 section may collect and retain for issuing each license the
2580 additional fee authorized under Section 49-7-17.

2581 **SECTION 25.** Section 49-7-9.1, Mississippi Code of 1972, is
2582 brought forward as follows:

2583 49-7-9.1. (1) (a) Any resident engaged in fishing for
2584 commercial purposes and selling or peddling nongame gross fish at
2585 retail or selling or shipping same at wholesale, as to markets,
2586 dealers or canning plants, shall purchase a commercial fishing
2587 license.

2588 (b) A licensee must label each piece of commercial
2589 fishing equipment with a waterproof or metal tag containing any
2590 information required by the department. A piece of commercial
2591 fishing equipment is defined as: One (1) each hoop or barrel net;
2592 one thousand (1,000) feet or less of trotline; one thousand
2593 (1,000) feet or less of snagline; three thousand (3,000) feet or
2594 less of gill netting; or three thousand (3,000) feet or less of
2595 trammel netting. Netting of over three thousand (3,000) feet is
2596 prohibited.

2597 (c) Upon the purchase of a commercial license for use
2598 of hoop or barrel nets, the licensee is permitted to use lead nets
2599 thirty-five (35) yards in length for each two (2) barrel nets
2600 used, but not to exceed seven (7) lead nets.

2601 (2) Each person taking nongame gross fish as defined in
2602 Section 49-7-1, of any kind from the fresh waters of the state



2603 shall be considered a producer and shall be entitled to sell his
2604 own catch of nongame gross fish to anyone except as otherwise
2605 provided by law or applicable regulations.

2606 (3) Each resident buying or handling nongame gross fish
2607 secured from commercial fishermen or others for the purpose of
2608 resale, whether handled on a commission basis or otherwise, and
2609 each resident shipping nongame gross fish not his own catch out of
2610 the State of Mississippi shall be considered a wholesale dealer
2611 and shall purchase a commercial fishing license. Resident
2612 wholesale dealers' licenses shall be issued only to persons who
2613 have been bona fide residents of the State of Mississippi for at
2614 least six (6) months.

2615 (4) Each resident buying nongame gross fish from a licensed
2616 wholesale dealer or licensed commercial fisherman for retail sale
2617 to the consumer only on rural or urban routes shall purchase a
2618 commercial fishing license to do so.

2619 (5) Each resident engaged in the buying and selling of
2620 nongame gross fish as a wholesale dealer's agent, whether on a
2621 commission or salary basis, or otherwise, and not selling in the
2622 open market, shall purchase a commercial fishing license and shall
2623 be responsible for any illegal transaction ensuing between the
2624 time he purchases the fish from the fisherman and the time the
2625 fish are accepted by the wholesaler by whom he is employed.

2626 (6) (a) Any resident using a wooden or plastic slat basket
2627 shall purchase a slat basket license for each basket each year in



2628 addition to a commercial fishing license. Slat baskets are
2629 defined as commercial fishing devices used solely for the capture
2630 of catfish and made entirely of wood and/or plastic slats in a
2631 box-like or cylindrical shape. Slat baskets shall not exceed six
2632 (6) feet in length nor exceed fifteen (15) inches in width and
2633 height or diameter, may have no more than two (2) throats, and
2634 must have at least four (4) slot openings at least one and
2635 one-fourth (1-1/4) by twenty-four (24) inches evenly spaced around
2636 the sides of the catch area. The one and one-fourth (1-1/4) inch
2637 wide slots or greater must begin at the rear of the basket and run
2638 twenty-four (24) inches toward the throat end of the basket. Slat
2639 baskets shall be placed at least one hundred (100) yards apart and
2640 may not be used with any form of leads, netting or guiding
2641 devices.

2642 (b) Each slat basket shall have a waterproof or metal
2643 tag attached to it containing any information required by the
2644 department. Any other identification of the owner of the slat
2645 basket shall meet any specifications required by the department.
2646 Slat baskets may be fished statewide except where specifically
2647 prohibited.

2648 (c) Any violation of this subsection shall be a Class I
2649 violation as prescribed in Section 49-7-141.

2650 (7) It is unlawful for any person to offer for sale
2651 undersized nongame gross fish.



2652 (8) (a) The fee for a resident commercial fishing license
2653 shall be Thirty Dollars (\$30.00).

2654 (b) The fee for a slat basket license shall be Thirty
2655 Dollars (\$30.00).

2656 (9) Any person authorized to issue any license under this
2657 section may collect and retain for issuing each license the
2658 additional fee authorized under Section 49-7-17.

2659 **SECTION 26.** Section 49-7-49, Mississippi Code of 1972, is
2660 brought forward as follows:

2661 49-7-49. For the purpose of this chapter, the fact that any
2662 person shall be found in the possession of a trap, fishing tackle,
2663 or other device of any description whatsoever used for the purpose
2664 of taking wild animals, wild birds or fish in the natural habitat
2665 of such animals, birds, or fish, or in the possession of dead
2666 bodies of wild birds, wild animals or fish within the field, in
2667 the forests or on the public highways or on the waters of this
2668 state, shall be prima facie evidence that such person is or has
2669 been hunting, trapping, or fishing.

2670 **SECTION 27.** Section 49-7-80, Mississippi Code of 1972, is
2671 brought forward as follows:

2672 49-7-80. No person shall stock, place, release or cause to
2673 be released into any of the public waters of the state any aquatic
2674 species without first obtaining a permit from the Mississippi
2675 Department of Wildlife, Fisheries and Parks. No person shall
2676 release or cause to be released within this state, any animal not



2677 indigenous to Mississippi without first obtaining a permit from
2678 the Mississippi Department of Wildlife, Fisheries and Parks. The
2679 department may issue or deny a permit after it completes a study
2680 of the species to determine any detrimental effect the species
2681 might have on the environment.

2682 The department shall establish and maintain a list of
2683 approved, restricted and prohibited species and establish rules
2684 governing importation, possession, sale and escape of those
2685 species.

2686 This section shall not prohibit the practice of catch and
2687 release of native fish species or the release of native fish bait
2688 species.

2689 A person violating this section is guilty of Class I
2690 violation and, upon conviction, shall be punished as provided in
2691 Section 49-7-141.

2692 **SECTION 28.** Section 49-7-81, Mississippi Code of 1972, is
2693 brought forward as follows:

2694 49-7-81. (1) It is unlawful to take or kill game fish in
2695 any manner other than by hook and line with one or more hooks, or
2696 by use of a trot or troll line. Dip or landing nets may be used
2697 when landing a fish caught by hook and line, trot or troll lines.
2698 Shad and minnows may only be taken as bait with the aid of a dip
2699 or landing net, cast nets, boat-mounted scoops and wire baskets by
2700 residents for personal use in sportfishing. However, in private
2701 ponds or borrow pits or overflow ponds which go dry in summer and



2702 cut off from the regular streams, dip nets may be used for
2703 capturing or rescuing game fish. It is unlawful to kill or take
2704 fish of any species at any time or anywhere by mudding, or by the
2705 use of lime, poison, dynamite, India berries, weeds and walnuts,
2706 giant powder, gunpowder, or any other explosive, and no nongame
2707 gross fish shall be taken by the use of nets, seines or traps for
2708 personal use without a commercial fishing license. It is unlawful
2709 to set any freshwater commercial fishing equipment so that it
2710 extends more than halfway across the width of any stream, channel,
2711 drain or other body of water, and if commercial fishing equipment
2712 is placed in water, each piece of equipment shall be placed at
2713 least one hundred (100) yards apart. The commission shall have
2714 the authority to fix the minimum size mesh for use in barrel nets,
2715 hoop nets and seines for use in the freshwaters of this state
2716 regulated by the Commission on Wildlife, Fisheries and Parks.
2717 This authority given the commission shall not be extended to the
2718 regulation of mesh size for use in marine waters. Notwithstanding
2719 anything in this or any other section to the contrary, any person
2720 in Mississippi fishing with barrel nets, hoop nets or seines in
2721 any waters of common boundary between Mississippi and another
2722 state may use a mesh size in such nets which is the same as the
2723 mesh size allowed in the other state, where the other state allows
2724 a mesh size in such nets which is smaller than the mesh size
2725 otherwise allowable in Mississippi.



2726 (2) It is unlawful for any person to catch or destroy fish
2727 by the use of dynamite, gunpowder or other explosive substance.

2728 (3) It is unlawful for any person to use a telephone,
2729 battery or any other electrically operated device for the purpose
2730 of killing or capturing fish.

2731 (4) It is unlawful for any person to use any chemical of any
2732 kind in any stream or any lake where the public fishes for the
2733 purpose of killing or taking fish, except that this provision
2734 shall not be construed to apply to any owner of any fish pond
2735 using such chemical in his own private pond.

2736 (5) It is unlawful for any person to poison any fish by
2737 mingling in the water any substance calculated and intended to
2738 stupefy or destroy fish.

2739 (6) It is unlawful for any person to fish any equipment in
2740 the waters of the state of any size or type that is not allowed by
2741 the commission.

2742 (7) Any hoop net, barrel net, seine, gill net, slat baskets,
2743 trammel net or untagged commercial fishing gear or devices being
2744 fished in public waters may be seized and held as evidence and
2745 shall be subject to forfeiture.

2746 (8) Any person violating the provisions of subsections (2),
2747 (3), (4), (5) and (6) of this section is guilty of a Class I
2748 violation and, upon conviction, shall be punished as provided in
2749 Section 49-7-141.



2750 **SECTION 29.** Section 49-7-153, Mississippi Code of 1972, is
2751 brought forward as follows:

2752 49-7-153. (1) Any resident may purchase a lifetime
2753 sportsman hunting and fishing license by filing an application in
2754 the office of the department. The license shall qualify the
2755 licensee to take all fish, game and fowl, except waterfowl,
2756 including deer and turkey, in the manner provided by law. The
2757 license shall also permit the licensee to hunt with primitive
2758 weapons and bow and arrow, and to fish in the public waters of the
2759 state, including the taking of crabs, oysters, shrimp and any
2760 saltwater fish authorized to be taken under a recreational
2761 license.

2762 (2) The department may issue a resident lifetime sportsman
2763 license at a fee to be determined by the commission at an amount
2764 not less than One Thousand Dollars (\$1,000.00) for a person
2765 thirteen (13) years of age or older and not less than Five Hundred
2766 Dollars (\$500.00) for a person under thirteen (13) years of age.
2767 All lifetime licenses shall be issued from the office of the
2768 department. Each application for a lifetime license must be
2769 accompanied by a certified copy of the birth certificate of the
2770 individual to be named as the license holder, if the individual is
2771 twelve (12) years of age or under.

2772 (3) The commission shall establish proof of residency
2773 requirements for the purchase of a lifetime license, and shall
2774 also establish such restrictions on and regulations for lifetime



2775 licenses as it deems necessary and proper. Except as otherwise
2776 provided in this section, an applicant for a resident lifetime
2777 license must have been domiciled in this state for eighteen (18)
2778 consecutive months immediately preceding the date of his
2779 application for a license. The burden of proving domicile shall
2780 be on the applicant.

2781 (4) The department may issue a native son or daughter
2782 resident lifetime sportsman hunting and fishing license if
2783 official documents reflect that one of the applicant's parents was
2784 born in the State of Mississippi and was on active military
2785 service at the time of the applicant's birth.

2786 Such license may be issued at a fee to be determined by the
2787 commission at an amount not less than One Thousand Dollars
2788 (\$1,000.00) for a person thirteen (13) years of age or older and
2789 not less than Five Hundred Dollars (\$500.00) for a person under
2790 thirteen (13) years of age.

2791 The applicant must provide a certified copy of an original
2792 birth certificate of such parent showing that the parent was born
2793 in Mississippi and provide official documents indicating that such
2794 parent was on active military service at the time of the
2795 applicant's birth.

2796 An applicant for such license shall not be required to
2797 have been domiciled in this state for eighteen (18) consecutive
2798 months immediately preceding the date of his or her application
2799 for a license.



2800 (5) The department may issue a native son or daughter
2801 nonresident lifetime sportsman hunting and fishing license. The
2802 commission shall establish the fee, but the fee shall not be less
2803 than One Thousand Five Hundred Dollars (\$1,500.00). The applicant
2804 must provide a certified copy of the original birth certificate
2805 showing that the applicant was born in Mississippi and/or if the
2806 parents' address was in Mississippi at the time of birth as shown
2807 on the birth certificate or other documents and/or official
2808 documents reflect that one of said parents was on active military
2809 service outside the State of Mississippi at the time of said
2810 birth.

2811 Except as otherwise provided in this section, if the birth
2812 certificate of each parent reflects that each parent was born in
2813 the State of Mississippi, then any child born outside the State of
2814 Mississippi of those parents may be issued a nonresident lifetime
2815 sportsman license for the above set out fee.

2816 (6) Any materially false statement contained in an
2817 application for a lifetime license renders void the license issued
2818 pursuant to that application, and subjects the applicant to
2819 criminal prosecution under Section 49-7-45.

2820 (7) Nothing in this section exempts an applicant for a
2821 lifetime license from meeting other qualifications or requirements
2822 otherwise established by law for the privilege of hunting or
2823 fishing.



2824 **SECTION 30.** Section 49-9-5, Mississippi Code of 1972, is
2825 brought forward as follows:

2826 49-9-5. (1) It is unlawful for any person to take, catch or
2827 kill mussels by means of any kind of apparatus or in any manner
2828 whatsoever in any of the fresh waters of this state without first
2829 having secured a license or permit issued in accordance with this
2830 chapter.

2831 (2) It is unlawful for any person to take from any of the
2832 fresh waters of this state any kind of mussels in any manner for
2833 the purpose of culture or scientific investigation, without first
2834 obtaining a permit from the commission.

2835 (3) It is unlawful for any person to take mussels by means
2836 of dredges, drags or scoops, other than hand tongs.

2837 **SECTION 31.** Section 49-9-7, Mississippi Code of 1972, is
2838 brought forward as follows:

2839 49-9-7. Any resident, except any company, commercial
2840 operation or farm which operates a mussel abatement program,
2841 desiring to catch, take or kill mussels in any of the fresh waters
2842 of this state except as provided for by subsection (2) of Section
2843 49-9-5, shall apply to the commission, and pay a fee in the sum of
2844 Seven Hundred Fifty Dollars (\$750.00). Any person desiring to
2845 purchase mussel shells as mussels in the shell shall apply to the
2846 commission accompanied by a fee of Two Thousand Five Hundred
2847 Dollars (\$2,500.00). A nonresident desiring to catch, take or
2848 kill mussels in any fresh water of this state except as provided



2849 by subsection (2) of Section 49-9-5, shall apply to the
2850 commission, and pay a fee of not less than Two Thousand Dollars
2851 (\$2,000.00). A nonresident from a state which does not issue a
2852 nonresident mussel license shall be prohibited from obtaining a
2853 nonresident license from this state.

2854 **SECTION 32.** Section 49-9-15, Mississippi Code of 1972, is
2855 brought forward as follows:

2856 49-9-15. The commission shall set hearings at such times and
2857 places, after having given thirty (30) days notice thereof by
2858 publication in some newspaper published in the State of
2859 Mississippi of general circulation within the state, at which
2860 hearings evidence shall be received in regard to the operation of
2861 boats and equipment in the taking of mussels in the fresh waters
2862 of this state. After such hearings, the commission shall issue
2863 reasonable rules and regulations in regard to same, and if the
2864 evidence so indicates, shall, in order to prevent the depletion of
2865 mussel beds and to insure the proper propagation of mussels, adopt
2866 such regulations as it deems necessary.

2867 **SECTION 33.** Section 49-15-1, Mississippi Code of 1972, is
2868 brought forward as follows:

2869 49-15-1. As a guide to the interpretation and application of
2870 this chapter, the public policy of this state shall be to
2871 recognize the need for a concerted effort to work toward the
2872 protection, propagation and conservation of its seafood and
2873 aquatic life in connection with the revitalization of the seafood



2874 industry of the State of Mississippi, which is one of the state's
2875 major economic resources and affords a livelihood to thousands of
2876 its citizens; and in this connection, it is the intent of the
2877 Legislature to provide a modern, sound, comprehensive and workable
2878 law to be administered by specialists, who are vested with full
2879 and ample authority to take such action as may be necessary in
2880 order to help protect, conserve and revitalize seafood life in the
2881 State of Mississippi; it being at all times remembered that all of
2882 the wild aquatic life found in the waters of the State of
2883 Mississippi and on the bottoms of such waters, until taken
2884 therefrom in the manner hereinafter prescribed, is recognized as
2885 the property of the State of Mississippi because of its very
2886 nature, as well as because of the great value of the state of the
2887 aquatic life for food and other necessary purposes.

2888 **SECTION 34.** Section 49-15-15, Mississippi Code of 1972, is
2889 brought forward as follows:

2890 49-15-15. (1) In addition to any other powers and duties
2891 authorized by law, the department, with the advice of the advisory
2892 commission, shall have the following powers and duties regarding
2893 the regulation of seafood:

2894 (a) To exercise full jurisdiction and authority over
2895 all marine aquatic life and to regulate any matters pertaining to
2896 seafood, including cultivated seafood;

2897 (b) To adopt, promulgate, amend or repeal, after due
2898 notice and public hearing, in accordance with the Mississippi



2899 Administrative Procedures Law and subject to the limitations in
2900 subsection (2) of this section, rules and regulations authorized
2901 under this chapter, including, but not limited to, rules and
2902 regulations necessary for the protection, conservation or
2903 propagation of all seafood in the waters under the territorial
2904 jurisdiction of the State of Mississippi and for the regulation of
2905 gill net and purse seine fishermen. All public hearings under
2906 this chapter concerning the regulation of marine resources shall
2907 be held in Hancock, Harrison or Jackson Counties. Each rule or
2908 regulation promulgated under this chapter shall immediately be
2909 advertised one (1) time in a newspaper or newspapers having
2910 general circulation in counties affected by that regulation. A
2911 regulation shall become effective at 6:00 a.m. on the day after
2912 its publication;

2913 (c) To regulate all seafood sanitation and processing
2914 programs. In the three (3) coastal counties, the sanitation
2915 program regulating processing plants and seafood sold in retail
2916 stores operating in conjunction with a processing plant or seafood
2917 market that primarily deals with seafood is under the exclusive
2918 authority of the department. The department may also inspect and
2919 regulate those areas of any seafood processing plant which process
2920 freshwater species at any site. To effectively and efficiently
2921 implement the state seafood sanitation program, the State Health
2922 Officer, the Commissioner of Agriculture and the executive
2923 director of the department may enter into a memorandum of



2924 understanding, which at a minimum, clearly specifies the
2925 responsibilities of each agency in implementing the seafood
2926 sanitation program, as well as the sharing of information and
2927 communication and coordination between the agencies;

2928 (d) To set standards of measure;

2929 (e) To set requirements for employment of commission
2930 employees whose compensation shall be governed by the rules and
2931 regulations of the State Personnel Board;

2932 (f) To acquire and dispose of commission equipment and
2933 facilities;

2934 (g) To keep proper records of the commission, including
2935 an official ordinance book which contains all rules and
2936 regulations promulgated by the department, with the advice of the
2937 advisory commission, under this chapter;

2938 (h) To enter into advantageous interstate and
2939 intrastate agreements with proper officials, which directly or
2940 indirectly result in the protection, propagation and conservation
2941 of the seafood of the State of Mississippi, or continue any such
2942 agreements now in existence;

2943 (i) To arrange, negotiate or contract for the use of
2944 available federal, state and local facilities which would aid in
2945 the propagation, protection and conservation of the seafood of the
2946 State of Mississippi;

2947 (j) To authorize the operation of double rigs in the
2948 waters lying between the mainland coast and the island chain, and



2949 those rigs shall not exceed a length of twenty-five (25) feet at
2950 the corkline, and to prescribe the length at the lead line for
2951 each rig, net or try-trawl;

2952 (k) To destroy or dispose of equipment or nets which
2953 have been lawfully seized by the commission and which are not sold
2954 under Section 49-15-201 et seq.;

2955 (l) To open, close and regulate fishing seasons for the
2956 taking of shrimp, oysters, fish taken for commercial purposes and
2957 crabs and set size, catching and taking regulations for all types
2958 of seafood and culling regulations for oysters, except as
2959 otherwise specifically provided by law;

2960 (m) To utilize the resources of the Gulf Coast Research
2961 Laboratory to the fullest extent possible;

2962 (n) To develop a resource management plan to preserve
2963 seafood resources and to ensure a safe supply of these resources;

2964 (o) To prescribe types and forms of scientific permits
2965 for public educational or scientific institutions, federal and
2966 state agencies and consultants performing marine resource studies;

2967 (p) To suspend the issuance of licenses when necessary
2968 to impose a moratorium to conserve a fishery resource;

2969 (q) To promote, construct, monitor and maintain
2970 artificial fishing reefs in the marine waters of the State of
2971 Mississippi and in adjacent federal waters; to accept grants and
2972 donations of money or materials from public and private sources
2973 for such reefs; to set permit fees and establish guidelines for



2974 the construction of artificial reefs in federal waters; and to
2975 apply for any federal permits necessary for the construction or
2976 maintenance of artificial fishing reefs in federal waters. The
2977 location data associated with artificial reefs by corporations and
2978 private individuals shall not be published by the commission or
2979 the department on the website or in written publications of the
2980 department. Location data of the artificial reefs may be
2981 requested in writing by any individual and shall be provided by
2982 the department in a timely manner; and

2983 (r) To require, in addition to other licensing
2984 requirements, the successful completion of educational or training
2985 programs on shellfish sanitation as a prerequisite to receiving
2986 commercial licenses authorized under this chapter in order to
2987 ensure compliance with the Interstate Shellfish Sanitation
2988 Conference's educational requirements for shellfish processors,
2989 dealers and harvesters by January 1, 2014.

2990 (2) The department shall not adopt rules, regulations or
2991 ordinances pertaining to marine resources which are more stringent
2992 than federal regulations. In any case where federal laws and
2993 regulations are silent on a matter pertaining to marine resources,
2994 the laws and regulations of the State of Mississippi shall
2995 control. The department shall review all marine resource
2996 ordinances for compliance with the no more stringent standard and
2997 revise any ordinances more stringent than this standard no later
2998 than December 31, 1992. This subsection shall not apply to rules,



2999 regulations or ordinances pertaining to the wild stock of marine
3000 fin fish.

3001 **SECTION 35.** Section 49-15-17, Mississippi Code of 1972, is
3002 brought forward as follows:

3003 49-15-17. (1) (a) All monies received or obtained by the
3004 department under the provisions of this chapter shall be paid over
3005 by the department to the State Treasurer and shall be deposited
3006 into the fund known as the "Seafood Fund." All revenues collected
3007 through the department, to include, but not limited to, commercial
3008 saltwater licenses and taxes, permits, fines and penalties, and
3009 confiscated catches, shall be deposited into the department
3010 operating account (Seafood Fund) and expended for the operation of
3011 the department, as authorized by the Legislature.

3012 (b) There is established a special account to be known
3013 as the "Artificial Reef Program Account" within the Seafood Fund.
3014 Any funds received from any public or private source for the
3015 purpose of promoting, constructing, monitoring or maintaining
3016 artificial reefs in the marine waters of the state or in federal
3017 waters adjacent to the marine waters of the state shall be
3018 credited to the account. Any unexpended funds remaining in the
3019 account at the end of the fiscal year shall not lapse into the
3020 Seafood Fund, but shall remain in the account. The department may
3021 expend any funds in the account, subject to appropriation by the
3022 Legislature, to accomplish the purpose of the account.



3023 (c) There is established a special account to be known
3024 as the "Coastal Preserve Account" within the Seafood Fund. Any
3025 funds received from any public or private source for the purpose
3026 of management, improvement and acquisition of coastal preserves in
3027 the state and money required to be deposited pursuant to Sections
3028 27-19-56.10 and 27-19-56.27, shall be credited to the account.
3029 Any unexpended funds remaining in the account at the end of the
3030 fiscal year shall not lapse into the Seafood Fund, but shall
3031 remain in the account. The department may expend any funds in the
3032 account, subject to appropriation by the Legislature, for the
3033 management, improvement and acquisition of coastal preserves.

3034 (d) There is established a special account to be known
3035 as the "Mississippi Seafood Marketing Program Account" within the
3036 Seafood Fund. Monies required to be deposited into the account
3037 under Section 27-19-56.27 and any funds received from any public
3038 or private source for the purpose of promoting the Mississippi
3039 seafood industry must be credited to the account. Any unexpended
3040 funds remaining in the account at the end of the fiscal year do
3041 not lapse into the Seafood Fund, but remain in the account. The
3042 department may expend any funds in the account, subject to
3043 appropriation by the Legislature, to accomplish the purposes of
3044 this account, including, but not limited to, providing funds for
3045 cobia stock enhancement programs.

3046 (e) There is established a special account to be known
3047 as the "Oyster Production Preserve Account" within the Seafood



3048 Fund. Monies required to be deposited from oyster leasing and
3049 licensing payments under Section 27-15-27, sack fees, money
3050 required to be deposited pursuant to Sections 27-19-56.10 and
3051 27-19-56.27, and any funds received from any public or private
3052 source for the purpose of oyster production and propagation in
3053 this state, which includes plantings of oysters and cultch
3054 materials, shall be credited to the account. Any unexpended funds
3055 remaining in the account at the end of the fiscal year shall not
3056 lapse into the Seafood Fund, but shall remain in the account. The
3057 department may expend any funds in the account, subject to
3058 specific appropriation by the Legislature, for the management,
3059 improvement and acquisition of permittable property for oyster
3060 production and propagation in the state, which includes plantings
3061 of oysters and cultch materials. The Department of Marine
3062 Resources shall develop an annual report to the Legislature which
3063 describes the annual expenditures from this fund for the purpose
3064 of furthering oyster production and propagation in this state to
3065 be included in the department's annual budget request to the
3066 Legislative Budget Office and to be transmitted to the Chairmen of
3067 the Senate and House Committees on Ports and Marine Resources.

3068 (2) The fund shall be treated as a special trust fund and
3069 interest earned on the principal shall be credited to the fund.

3070 (3) The department shall keep accurate reports of monies
3071 handled as a part of the permanent records of the department, and
3072 the State Treasurer shall furnish the department such forms as may



3073 be needed, and the department shall account for such forms in
3074 reports to the Treasurer.

3075 **SECTION 36.** Section 49-15-21, Mississippi Code of 1972, is
3076 brought forward as follows:

3077 49-15-21. (1) The executive director shall appoint the
3078 necessary enforcement officers for the administration of this
3079 chapter. The salary of all enforcement officers employed shall be
3080 as determined by the State Personnel Board. However, the members
3081 of the Enforcement Officers' Reserve Unit created in subsection
3082 (4) shall serve without pay, and shall not be employees of the
3083 State of Mississippi for purposes of the State Personnel System,
3084 the Workers' Compensation Law, the Public Employees' Retirement
3085 System or the State Employees Life and Health Insurance Plan.

3086 (2) All enforcement officers shall be experienced and
3087 qualified persons thoroughly familiar with the seafood business
3088 and shall be at least twenty-one (21) years of age and be a high
3089 school graduate or its equivalent. The enforcement officers shall
3090 diligently enforce all laws and regulations for the protection,
3091 propagation, preservation or conservation of all saltwater aquatic
3092 life of the State of Mississippi, and they are hereby constituted
3093 peace officers of the State of Mississippi, with full police power
3094 and jurisdiction to enforce all laws of the State of Mississippi,
3095 inclusive of all federal laws within the jurisdiction of the State
3096 of Mississippi and waters and resources under management of the
3097 state, and all regulations adopted and promulgated by the



3098 department. Enforcement officers may exercise such powers in any
3099 county of the State of Mississippi and on any waters of the state,
3100 and they are hereby authorized to carry firearms or other weapons,
3101 concealed or otherwise, and they shall investigate all persons,
3102 corporations and otherwise who are alleged to have violated any
3103 laws, and make affidavits, arrests and serve papers of any court
3104 of competent jurisdiction, in like manner as is provided for
3105 sheriffs and deputy sheriffs, when the same shall be in connection
3106 with the enforcement of the seafood laws of the State of
3107 Mississippi and such other laws and regulations of this state as
3108 the department may designate. The enforcement officers may seize
3109 at any time aquatic life caught, taken or transported in a manner
3110 contrary to the laws of this state, and may confiscate and dispose
3111 of the same. Any net or other paraphernalia used or employed in
3112 connection with a violation may be seized, and forfeiture
3113 proceedings may be instituted. Enforcement officers may draft the
3114 aid of captains, crews and boats or licensed vessels to enforce
3115 this chapter and may, without warrant, board and search vessels or
3116 vehicles. The application for any license or permit from the
3117 department to catch, fish, take, transport or handle or process
3118 any form of aquatic life, or the taking, catching, transporting or
3119 handling or processing of any and all aquatic life in this state
3120 shall constitute acquiescence and agreement upon the part of the
3121 owners, captains and crews, employers and dealers to the
3122 provisions of this chapter and the agreement that enforcement



3123 officers may exercise the authority granted under the provisions
3124 hereof.

3125 (3) Prior to entering into performance of their duties or
3126 delegations or as soon after appointment as possible, each
3127 enforcement officer, at the expense of the department, shall
3128 attend and complete an appropriate curriculum in the field of law
3129 enforcement at the Mississippi Law Enforcement Officers' Training
3130 Academy or other law enforcement training program approved under
3131 Section 45-6-7. However, members of the Enforcement Officers'
3132 Reserve Unit created in subsection (4) of this section may attend
3133 the Mississippi Law Enforcement Officers' Training Academy at the
3134 expense of the department if it deems the training necessary or
3135 desirable. No enforcement officer shall be entitled to payment of
3136 salary after the first twelve (12) months in office if he has
3137 either failed to attend the academy or has failed to comply with
3138 other qualifications or successfully complete any law enforcement
3139 qualification examinations as the director deems necessary. The
3140 enforcement officers shall, on a periodic basis, be required to
3141 attend additional advanced courses in law enforcement in order
3142 that they will be properly improved and trained in the modern,
3143 technical advances of law enforcement.

3144 (4) (a) There is hereby created an Enforcement Officers'
3145 Reserve Unit, hereinafter termed "the reserve," to assist the
3146 enforcement officers in the performance of their duties under this
3147 chapter. The reserve shall consist of volunteers who are approved



3148 by the Executive Director of the Department of Marine Resources or
3149 his designee. The members of the reserve shall serve without pay.
3150 Reserve officers shall be in such numbers as determined by the
3151 enforcement needs, with the maximum strength of reserve officers
3152 limited to the same number as enforcement officers.

3153 (b) To be eligible for membership in the reserve, an
3154 applicant must be twenty-one (21) years of age, be a high school
3155 graduate or its equivalent, be in good physical condition, have a
3156 Mississippi driver's license, be in good standing with the
3157 community, be available for training and duty, not be a member of
3158 any police, auxiliary police, civil defense, or private security
3159 agency, have never been convicted of a felony, and have one (1) of
3160 the following:

3161 (i) An honorable discharge or honorable separation
3162 certificate from one (1) of the United States military services;

3163 (ii) Three (3) years of responsible post-high
3164 school work experience that required the ability to deal
3165 effectively with individuals and groups of persons;

3166 (iii) Successful completion of sixty (60) semester
3167 hours at an accredited college or university; or

3168 (iv) The qualifications as are outlined in this
3169 section for enforcement officers.

3170 Members of the immediate family of enforcement officers shall
3171 not be eligible for the reserve unless a special waiver is
3172 granted.



3173 Upon acceptance into the reserve, members shall receive a
3174 temporary appointment for one (1) year. During this year of
3175 temporary status, members must successfully complete the required
3176 training and must qualify on the same firearms course as
3177 enforcement officers.

3178 (c) The reserve shall be under the leadership and
3179 direction of the executive director or his designee. The training
3180 of the reserve shall be conducted by an enforcement officer. The
3181 reserve shall meet at least once each month for the purpose of
3182 training and transacting any business as may come before it. The
3183 executive director shall be notified in writing of all meetings of
3184 the reserve and the time and place of the meetings shall be
3185 recorded with the executive director. The executive director
3186 shall prepare a reserve officer's manual with the advice and
3187 consent of the department. The manual shall include, but is not
3188 limited to, the following: activities and operations, training,
3189 administration and duties. During active service, the reserve
3190 shall be under the direction of the executive director or his
3191 designated representative. When a reserve officer is on active
3192 duty and assigned to a specific enforcement officer, he shall be
3193 under the direct supervision of that officer. Reserve officers
3194 serve at the discretion of the executive director and may be
3195 dismissed by him. Reserve officers shall furnish their own
3196 uniforms and other personal equipment if the executive director
3197 does not provide such items.



3198 (d) The executive director may require members of the
3199 Enforcement Officers' Reserve Unit to attend officer reserve
3200 training programs conducted by county or municipal agencies.

3201 (e) The executive director may issue uniforms to such
3202 reserve officers and may authorize the issuance of any state
3203 equipment necessary for the reserve officers to adequately assist
3204 law enforcement officers. The executive director may develop a
3205 reserve officer identification system to accomplish the issuance
3206 of such items in accordance with the State Auditor guidelines.

3207 (f) If the executive director determines that a member
3208 of the Enforcement Officers' Reserve Unit may attend a training
3209 program as authorized under this section, it shall require that
3210 reserve officer to sign an agreement, prior to attending a
3211 training program, which shall stipulate that if the reserve
3212 officer accepts employment from any other public or private law
3213 enforcement agency within three (3) years after completion of his
3214 training program, the reserve officer or the respective hiring law
3215 enforcement agency shall reimburse the department for the total
3216 cost of his training program. By October 1 of each year, the
3217 department shall provide the Conservation and Water Resources
3218 Committee of the Mississippi House of Representatives and the
3219 Ports and Marine Resources Committee of the Mississippi Senate a
3220 listing which contains each name and the respective cost of
3221 training each reserve officer received during the previous year.



3222 **SECTION 37.** Section 49-15-27, Mississippi Code of 1972, is
3223 brought forward as follows:

3224 49-15-27. The department is hereby granted full and complete
3225 authority to lease the bottoms within its jurisdiction upon the
3226 following terms and conditions:

3227 (1) All areas within the department's jurisdiction, not
3228 designated state-owned reefs by this chapter, including natural
3229 reefs and all areas not within the boundaries of riparian property
3230 owners may be leased by the department.

3231 (2) All individual lessees shall be residents of the State
3232 of Mississippi, or if a firm or corporation, such firm or
3233 corporation shall be organized under the laws of the State of
3234 Mississippi and owned by a resident of the State of Mississippi.

3235 (3) No individual, corporation, partnership or association
3236 may lease less than one (1) acre nor more than two thousand five
3237 hundred (2,500) acres total; however, in the case of an individual
3238 there shall be counted towards such limitation any lands leased by
3239 a corporation, partnership or association in which such individual
3240 owns ten percent (10%) or less interest and, in the case of a
3241 corporation, partnership or association, there shall be counted
3242 toward such limitation any lands leased by an individual
3243 stockholder, partner or associate thereof who owns ten percent
3244 (10%) or less interest in such corporation, partnership or
3245 association.



3246 (4) Individuals, firms or corporations desiring to lease
3247 bottoms shall make application to the department in writing,
3248 describing the area to be leased. Applications must include a
3249 plat showing the proposed lease area and description of cultch
3250 material type and amount to be deployed on the leased area.

3251 (5) (a) Any person who qualifies and who desires to lease a
3252 part of the bottom or bed of any of the waters of this state as
3253 provided in this section shall present to the department a written
3254 application, and pay an application fee in the amount of Fifty
3255 Dollars (\$50.00). This application shall contain the name and
3256 address of the applicant and a reasonably definite description of
3257 the location and amount of land covered by water desired by the
3258 applicant. Upon receipt of the application, the department shall
3259 then register the application with date and time stamped thereon,
3260 shall order an examination to determine whether the water bottoms
3261 applied for are leasable, and shall determine the acreage upon
3262 which the rental of the lease shall be fixed. If the area is
3263 found to be leasable, the department shall either make a lease
3264 with the applicant or issue a written notice declining the
3265 application with reasons for same within thirty (30) days of the
3266 date of the application. Such lease shall be for the area
3267 described in the application upon payment of the prorated annual
3268 rent in advance for the remainder of the calendar year.

3269 (b) When applications are made by two (2) or more
3270 persons for the same water bottoms, the applicant or the heirs or



3271 transferors of a deceased applicant who files the first
3272 application has prior claim.

3273 (c) The department shall require that the bottoms of
3274 water areas to be leased be as definable as possible, taking into
3275 consideration such factors as the shape of the body of water, and
3276 the condition of the bottom as to hardness or softness which would
3277 render it desirable or undesirable for the purpose of oyster
3278 cultivation.

3279 (d) The provisions of this subsection shall apply only
3280 to the initial application for an oyster lease, and not to the
3281 renewal of a lease.

3282 (e) The department may not execute a lease until the
3283 department has posted notice of the application for the lease on
3284 its website for thirty (30) consecutive days.

3285 (f) Any person claiming ownership of or interest in the
3286 water bottoms to be leased may protest the issuance of the lease
3287 on the grounds that the protesting party owns the water bottoms,
3288 but only by delivering via certified mail notice of the protest in
3289 writing to the Secretary of State, and the lease applicant on or
3290 before the thirtieth day after notice of the application was
3291 posted. The notice of protest shall include all information and
3292 documentation that the protesting party believes is relevant to
3293 the question of ownership. The right to protest issuance of the
3294 lease pursuant to this section shall expire if a protest is not



3295 made on or before the ninetieth day after notice of the
3296 application was posted.

3297 (g) If a protest is timely made, the Secretary of State
3298 shall review the claim to ownership of the contested water bottoms
3299 and issue a preliminary determination to the protesting party, and
3300 the lease applicant within ninety (90) days of receiving the
3301 notice of protest. Any applicant shall have the right to appeal
3302 any decision of the department related to such protest to the
3303 circuit court with proper venue.

3304 (h) A lease applicant may withdraw a lease application
3305 and receive a full refund from the department of all application
3306 fees, by submitting a written request for withdrawal to the
3307 department within ninety (90) days after the department posts
3308 notice of the application on its website.

3309 (6) Such leases shall be for an initial term of fifteen (15)
3310 years, with the lessee having the right of first renewal of the
3311 lease for an additional fifteen (15) years, and continue to renew
3312 at fifteen-year intervals, at the same ground rental rate so long
3313 as lessee actively cultivates and gathers oysters, and complies
3314 with the provisions of this chapter. No lease may be transferred
3315 without approval by the department of the transfer.

3316 (7) The terms of every lease issued hereunder shall ensure
3317 the maximum cultivation and propagation of oysters. Throughout
3318 the term of every lease issued hereunder, each lessee shall add
3319 cultch and make other necessary efforts to ensure the maximum



3320 cultivation and propagation of oysters. The department shall
3321 promulgate regulations to set forth guidelines for lessees to
3322 follow to ensure the maximum cultivation and propagation of
3323 oysters under the lease. The lessee shall submit a written report
3324 with supporting documentation to the department of efforts to
3325 cultivate and propagate oysters for the previous year. If the
3326 department finds a lessee is not making efforts to cultivate and
3327 propagate oysters, and the lessee fails to take remedial steps to
3328 address same, such lease shall be subject to termination as
3329 provided for hereunder.

3330 (8) The department shall fix a ground rental rate at Three
3331 Dollars (\$3.00) per acre per year. The annual rental payments
3332 shall be due by December 31 for the next calendar year.

3333 (9) Any lessee who pays the rent on or after the first day
3334 of January shall pay the rent due plus an additional ten percent
3335 (10%) penalty. The failure of the lessee to pay the rent
3336 punctually on or before the first of each March, ipso facto and
3337 without demand or putting in default, terminates and cancels the
3338 lease and forfeits to the department all the works, improvements,
3339 betterments, and oysters on the leased water bottom. The
3340 department may at once enter on the water bottom and take
3341 possession thereof. Such water bottom shall then be open for
3342 lease in accordance with subsections (5) through (8) of this
3343 section. Ten (10) days thereafter the department shall enter the
3344 termination, cancellation, and forfeiture on its books and give



3345 public notice thereof by publication in one (1) local paper in the
3346 county where the formerly leased water bottoms are located. On or
3347 before the first day of each February, the department shall issue
3348 a written notice of delinquency by certified mail to each lessee
3349 who has not yet paid the rent. The department shall also publish
3350 notice of such delinquency on its website.

3351 (10) The department shall keep an accurate chart of the
3352 areas within its jurisdiction and shall mark on such chart those
3353 areas which are under lease. All leases shall be marked by
3354 appropriate poles, stakes or buoys of such material as will not
3355 injure watercraft, at the expense of the leaseholder. The
3356 department shall keep an accurate book, designated "Mississippi
3357 Oyster Farms" which shall contain copies of all leases. The
3358 department shall maintain a map of designated state-owned, leased
3359 areas, and areas available for lease on the department's website.
3360 If any lease be cancelled or expire, such fact shall be noted on
3361 the face of such lease. Lessees shall be "oyster farmers" for the
3362 purposes of any grants, aid, subsidies or other assistance from
3363 the federal government or other governmental or private agencies.

3364 (11) All funds derived from leasing shall be paid into the
3365 Seafood Fund under Section 49-15-17, for use by the department to
3366 further oyster production in this state, which includes plantings
3367 of oysters and cultch materials.

3368 (12) All leases made by the department under the authority
3369 of this section shall be subject to the paramount right of the



3370 state and any of its political subdivisions authorized by law, to
3371 promote and develop ports, harbors, channels, industrial or
3372 recreational projects, and all such leases shall contain a
3373 provision that in the event such authorized public body shall
3374 require the area so leased or any part thereof for such public
3375 purposes, that the lease shall be terminated on reasonable notice
3376 fixed by the department in such lease. On the termination of any
3377 lease, the lessees shall have the right to remove any oysters
3378 within the leased area within such time as may be fixed by the
3379 department and in accordance with such reasonable rules and
3380 regulations as the department may adopt.

3381 Any person convicted of taking oysters from leased land or
3382 from waters that are not of a safe sanitary quality without a
3383 permit as provided in Section 49-15-37 shall, on the first
3384 offense, forfeit all equipment used, exclusive of any boat or
3385 boats; and be fined not to exceed Two Thousand Dollars (\$2,000.00)
3386 or sentenced not to exceed one (1) year in the county jail, or
3387 both. Subsequent convictions shall be punishable by forfeiture of
3388 all equipment, including any boat or boats; and a fine not to
3389 exceed Five Thousand Dollars (\$5,000.00) or not to exceed two (2)
3390 years in prison, or both such fine and imprisonment.

3391 The department is enjoined to cooperate with the Jackson
3392 County Port Authority, the Harrison County Development Commission,
3393 the municipal port commission and other port and harbor agencies,
3394 so that oyster beds shall not be planted in close proximity to



3395 navigable channels. The department or lessee shall have no right
3396 of action as against any such public body for damages accruing to
3397 any natural reef or leased reef by any necessary improvement of
3398 such channel in the interest of shipping, commerce, navigation or
3399 other purpose authorized by law.

3400 (13) A lessee has the exclusive use of the water bottoms
3401 leased and all oysters and cultch grown or placed thereon.
3402 However, this exclusive right is subordinate to the rights and
3403 responsibilities of the state, any political subdivision of the
3404 state, the United States, or any agency or agent thereof, to take
3405 action in furtherance of coastal protection, conservation or
3406 restoration.

3407 (14) In order to protect the health and safety of the
3408 residents of the State of Mississippi, the terms and conditions
3409 relating to the leasing of bottoms provided in this section shall
3410 be fully applicable to any lease executed by the Mississippi
3411 Department of Marine Resources prior to April 17, 2023, and the
3412 department shall revise any lease issued prior to April 17, 2023,
3413 as necessary in order to comply with the provisions of this
3414 section.

3415 **SECTION 38.** Section 49-15-29, Mississippi Code of 1972, is
3416 brought forward as follows:

3417 49-15-29. (1) The department shall assess and collect
3418 license fees and taxes as authorized under this chapter.



3419 (2) All commercial licenses provided for under this chapter
3420 that relate to seafood shall be purchased from May 1 through April
3421 30 at the fees provided in this chapter. The licenses shall
3422 expire on April 30 following the date of issuance.

3423 (3) When an application for an original or renewal license
3424 of any kind authorized by this chapter is received by the
3425 department, the department shall determine whether the vessel or
3426 related equipment subject to that license is owned and operated in
3427 compliance with applicable federal and state laws. If the
3428 department determines that a vessel or its owner is not in
3429 compliance with applicable federal and state laws, then no license
3430 shall be issued or renewed for the operation of that vessel for a
3431 period of one (1) year. All licenses shall be made available for
3432 purchase at any building which is regularly operated by the
3433 department on the Mississippi Gulf Coast.

3434 (4) The department may authorize any person, other than a
3435 salaried employee of the state to issue any license under this
3436 chapter which the department deems appropriate. The authorized
3437 person may collect and retain for issuance of the license the sum
3438 of One Dollar (\$1.00) in addition to the license fee provided in
3439 this chapter. The department shall establish the qualifications
3440 of persons authorized to issue licenses under this section and
3441 shall also establish the procedure for the issuance of that
3442 license by the authorized person and the procedure for collection
3443 of license fees by and from the authorized person.



3444 (5) The department may design, establish, and administer a
3445 program to provide for the purchase, by electronic means, of any
3446 license, permit, registration or reservation issued by the
3447 department. Any actual costs associated to provide these
3448 documents electronically may be added to the cost of the
3449 electronic program.

3450 **SECTION 39.** Section 49-15-34, Mississippi Code of 1972, is
3451 brought forward as follows:

3452 49-15-34. (1) The department shall require all boats used
3453 under regulation of this chapter which are also used in waters of
3454 other states and required by those states to pay licenses or fees
3455 for the same purposes as licenses and fees are required under this
3456 chapter to purchase a license which reflects that the licensed
3457 boats are used inside and outside the territorial waters of
3458 Mississippi. Upon the issuance of that license, the licensed
3459 boat, if used exclusively for commercial fishing or charter boats
3460 which have been licensed and authorized by the United States Coast
3461 Guard under 46 CFR Sections 24-26 and 46 CFR Sections 175-187,
3462 shall be deemed to be in the business of interstate
3463 transportation, but this shall in no way affect the collection of
3464 other licenses and fees by the department which would otherwise be
3465 due under this chapter. The department shall assess and collect
3466 an annual license fee of Twenty Dollars (\$20.00) on each boat
3467 engaged in operations under this subsection.



3468 (2) Notwithstanding the provisions of this chapter, the
3469 department shall establish a transport permit to land seafood in
3470 this state which is legally taken outside of the Mississippi
3471 territorial waters without obtaining a license under this chapter.
3472 The department by regulation shall require the registration of
3473 those landings. The department may establish a permit fee in an
3474 amount not to exceed the amount of the license fee established in
3475 Section 49-15-28(1). This subsection shall not be construed to
3476 supersede Section 49-15-71.

3477 **SECTION 40.** Section 49-15-64.3, Mississippi Code of 1972, is
3478 brought forward as follows:

3479 49-15-64.3. (1) It is unlawful for any person, firm or
3480 corporation to take, catch or have in their possession within
3481 territorial waters of the State of Mississippi shrimp of a size
3482 weighing in the raw state less than one (1) pound to each
3483 sixty-eight (68) shrimp, except when a valid permit or affidavit
3484 of another state identifies the catch as having been taken in
3485 non-Mississippi waters, or except in case of live bait shrimp.

3486 (2) It is unlawful to take, catch or have in possession live
3487 bait shrimp of a size weighing in the raw state less than one (1)
3488 pound to each one hundred (100) shrimp. This provision may be
3489 changed by a two-thirds (2/3) vote of the commission. The
3490 commission may adopt rules, regulations, guidelines and other
3491 operation criteria in conjunction with licensing live bait dealers
3492 and live bait catcher boats as it deems appropriate to ensure that



3493 only bona fide operations will be licensed. The commission shall
3494 consult with existing live bait dealers and live bait catcher boat
3495 operators before adoption of any regulations and before any future
3496 changes. The commission shall hold a public hearing in the county
3497 affected by the regulation, but if more than one (1) county is
3498 affected, then the commission shall hold a public hearing in
3499 Harrison County. The commission shall notify each live bait
3500 licensee of the public hearing at least ten (10) days prior to the
3501 hearing, by first class mail at the last known address of the
3502 licensee.

3503 (3) If a live bait dealer or live bait catcher boat is
3504 convicted of a violation of this chapter or a duly adopted
3505 ordinance of the commission, the commission may, in addition to
3506 punishment duly adjudicated, revoke the license of the vessel or
3507 dealer to whom it is issued for a period not exceeding two (2)
3508 weeks following conviction of the first offense, not exceeding six
3509 (6) months following conviction of the second offense, and up to
3510 one (1) year following conviction of the third and subsequent
3511 offenses, if the subsequent offenses are committed within three
3512 (3) years of the first offense. Upon the revocation of the
3513 license, the commission may require the posting of a cash
3514 performance bond not to exceed One Thousand Dollars (\$1,000.00)
3515 before the reissuance of that revoked license. The commission may
3516 require the forfeiture of that bond upon the subsequent conviction
3517 of any violation of this chapter or a duly adopted ordinance of



3518 the commission. If a person who posts bond under this section
3519 desires to no longer engage in the live bait business, that person
3520 shall certify that fact to the commission who shall return the
3521 bond. If that person desires to again engage in the live bait
3522 business, a cash performance bond may be required before the
3523 issuance of a license.

3524 **SECTION 41.** Section 49-15-46, Mississippi Code of 1972, is
3525 brought forward as follows:

3526 49-15-46. (1) Each vessel used to catch, take, carry or
3527 transport oysters from the reefs of the State of Mississippi, or
3528 engaged in transporting any oysters in any of the waters within
3529 the territorial jurisdiction of the State of Mississippi, for
3530 commercial use, shall annually, before beginning operations, be
3531 licensed by the department and pay the following license fee:

3532 (a) Fifty Dollars (\$50.00) on each in-state vessel or
3533 boat used for tonging oysters or gathering oysters by hand;

3534 (b) One Hundred Dollars (\$100.00) on each in-state
3535 vessel or boat used for dredging oysters;

3536 (c) One Hundred Dollars (\$100.00) on each out-of-state
3537 vessel or boat used for tonging oysters or gathering oysters by
3538 hand, or the license fee charged by the out-of-state licensing
3539 entity to Mississippi vessels or boats for tonging or gathering
3540 oysters, whichever is greater; or

3541 (d) Two Hundred Dollars (\$200.00) on each out-of-state
3542 vessel or boat used for dredging oysters, or the license fee



3543 charged by the out-of-state licensing entity to Mississippi
3544 vessels or boats for dredging oysters, whichever is greater.

3545 (2) Each molluscan shellfish aquaculture operation shall
3546 annually, before beginning operations, be licensed by the
3547 department and pay the following license fee:

3548 (a) Fifty Dollars (\$50.00) on each resident molluscan
3549 shellfish aquaculture operation; or

3550 (b) One Hundred Dollars (\$100.00) on each nonresident
3551 molluscan shellfish aquaculture operation.

3552 (3) The department may authorize the transfer of a vessel
3553 license to a different vessel provided that the owner of both
3554 vessels is the same titled owner.

3555 (4) All oysters harvested in the State of Mississippi shall
3556 be tagged. Tags shall be issued by the department and shall bear
3557 the catcher's name, the date and origin of the catch, the shell
3558 stock dealer's name and permit number. The department shall
3559 number all tags issued and shall maintain a record of those tags.
3560 The department, in its discretion, may adopt any regulations
3561 regarding the tagging of oysters and other shellfish.

3562 (5) Each person catching or taking oysters from the waters
3563 of the State of Mississippi for personal use shall obtain a permit
3564 from the department and pay an annual recreational oyster permit
3565 fee of Ten Dollars (\$10.00). Oysters caught under a recreational
3566 permit shall not be offered for sale. The limits on the allowable
3567 catch of oysters for recreational purposes shall be three (3)



3568 sacks per week. The department shall issue tags of a
3569 distinguishing color to designate recreationally harvested
3570 oysters, which shall be tagged on the same day of harvest in the
3571 manner prescribed in subsection (4) of this section for
3572 commercially harvested oysters or by regulation of the department.

3573 (6) The department shall assess and collect a shell
3574 retention fee for the shells taken from waters within the
3575 territorial jurisdiction of the State of Mississippi as follows:

3576 (a) Commercial and recreational harvesters - Fifteen
3577 Cents (15¢) per sack paid to the department on the day of harvest;

3578 (b) Initial oyster processor, dealer or factory first
3579 purchasing the oysters - Fifteen Cents (15¢) per sack paid to the
3580 department no later than the tenth day of the month following the
3581 purchase, on forms submitted by the department;

3582 (c) Commercial harvesters transporting their catch out
3583 of the state - Fifty Cents (50¢) per sack paid to the department
3584 on the day of harvest, in addition to the fees paid in paragraph
3585 (a) of this subsection; and

3586 (d) Commercial harvesters not selling their oysters to
3587 a Mississippi dealer - Fifteen Cents (15¢) per sack paid to the
3588 department on the day of harvest, in addition to fees paid in
3589 paragraph (a) of this subsection.

3590 Funds received from the shell retention fee shall be paid
3591 into a special fund in the State Treasury to be appropriated by
3592 the Legislature for use by the department to further oyster



3593 production in this state, which includes plantings of oysters
3594 and/or cultch materials.

3595 (7) During open seasons, oysters may be taken only by hands,
3596 tongs and dredges.

3597 (8) Vessels licensed under Section 49-15-46 may keep in
3598 whole, for personal consumption up to thirty-six (36) blue crabs
3599 (portunidae family), per day. This exemption for personal
3600 consumption does not apply to fish or crabs that are otherwise
3601 illegal to possess or catch.

3602 **SECTION 42.** Section 49-15-64.5, Mississippi Code of 1972, is
3603 brought forward as follows:

3604 49-15-64.5. (1) (a) Each freight boat, ice boat and
3605 catching boat used in catching or transporting saltwater shrimp
3606 taken from the waters of the State of Mississippi for sale in
3607 their fresh state, or for canning, packing, freezing or drying,
3608 shall first obtain from the commission an annual privilege license
3609 and pay a license fee at the following rates:

3610 (i) Fifty Dollars (\$50.00) for resident boats or
3611 vessels under thirty (30) feet in length in overall measurements
3612 and One Hundred Dollars (\$100.00) for nonresident boats or vessels
3613 under thirty (30) feet in length in overall measurements;

3614 (ii) Seventy-five Dollars (\$75.00) for resident
3615 boats or vessels between thirty (30) and forty-five (45) feet in
3616 length in overall measurements and One Hundred Dollars (\$100.00)



3617 for nonresident boats or vessels between thirty (30) and
3618 forty-five (45) feet in length in overall measurements;
3619 (iii) One Hundred Dollars (\$100.00) for resident
3620 boats or vessels greater than forty-five (45) feet in length in
3621 overall measurements and Two Hundred Dollars (\$200.00) for
3622 nonresident boats or vessels greater than forty-five (45) feet in
3623 length in overall measurements.

3624 (b) Beginning September 15, 1994, no nonresident shall
3625 be issued a commercial fishing license under this chapter for the
3626 taking of saltwater shrimp using any type of net if that
3627 nonresident's state of domicile prohibits the issuing of
3628 commercial fishing licenses to residents of this state to engage
3629 in like activity.

3630 (2) Each recreational vessel engaging in shrimping with a
3631 net having a corkline length of sixteen (16) feet or less shall
3632 pay an annual resident license fee of Fifteen Dollars (\$15.00) or
3633 an annual nonresident license fee of Thirty Dollars (\$30.00).

3634 (3) During open seasons and in open areas, saltwater shrimp
3635 may be taken only with shrimp trawls, trawls, butterfly nets,
3636 skimmer nets, push trawls, beach seines and cast nets.

3637 **SECTION 43.** Section 49-15-47, Mississippi Code of 1972, is
3638 brought forward as follows:

3639 49-15-47. (1) It is unlawful for any person, firm or
3640 corporation to discharge solid or human waste from any vessel



3641 while the vessel is used to harvest or transport oysters in the
3642 marine waters of the state.

3643 (2) Each vessel used to harvest or transport oysters is
3644 required to have an approved functional marine sanitation device
3645 (MSD), portable toilet or other sewage disposal receptacle
3646 designed to contain human sewage. The approved marine sanitation
3647 device (MSD), portable toilet or other sewage disposal receptacle
3648 shall:

3649 (a) Be used only for the purpose intended.

3650 (b) Be secured while on board and located to prevent
3651 contamination of shell stock by spillage or leakage.

3652 (c) Be emptied only into an approved sewage disposal
3653 system.

3654 (d) Be cleaned before being returned to the vessel.

3655 (e) Not be cleaned with equipment used for washing or
3656 processing food.

3657 (3) The use of other receptacles for sewage disposal may be
3658 approved by the department if the receptacles are:

3659 (a) Constructed of impervious, cleanable materials and
3660 have tight-fitting lids; and

3661 (b) Meet the requirements listed in subsection (2).

3662 (4) The department shall promulgate administrative penalties
3663 for violations of this section, which may include, but not be
3664 limited to, revocation of the license of the oyster vessel for up
3665 to one (1) year for the first offense, revocation up to two (2)



3666 years for the second offense, and permanent revocation for the
3667 third offense.

3668 (5) Upon issuance of a citation for a violation of this
3669 section, the vessel shall be removed from the oyster reef and any
3670 oysters on board the vessel shall be confiscated and disposed of
3671 by the department. The vessel shall not be permitted to harvest
3672 from any state-owned or private reefs until the vessel is properly
3673 equipped as determined by an inspection by the department.

3674 **SECTION 44.** Section 49-15-63, Mississippi Code of 1972, is
3675 brought forward as follows:

3676 49-15-63. (1) (a) Any person, firm or corporation
3677 violating any of the provisions of this chapter or any ordinance
3678 duly adopted by the department, unless otherwise specifically
3679 provided for herein, shall, on conviction, be fined not less than
3680 One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars
3681 (\$500.00), for the first offense, unless the first offense is
3682 committed during a closed season, in which case the fine shall be
3683 not less than Five Hundred Dollars (\$500.00), nor more than One
3684 Thousand Dollars (\$1,000.00); and not less than Five Hundred
3685 Dollars (\$500.00), nor more than One Thousand Dollars (\$1,000.00),
3686 for the second offense when such offense is committed within a
3687 period of three (3) years from the first offense; and not less
3688 than Two Thousand Dollars (\$2,000.00) nor more than Four Thousand
3689 Dollars (\$4,000.00), or imprisonment in the county jail for a
3690 period not exceeding thirty (30) days for any third or subsequent



3691 offense when such offense is committed within a period of three
3692 (3) years from the first offense.

3693 (b) In addition, upon conviction of such third or
3694 subsequent offense, it shall be the duty of the court to revoke
3695 the license of the convicted party and of the boat or vessel used
3696 in such offense, and no further license shall be issued to such
3697 person and for said boat to engage in catching or taking of any
3698 seafoods from the waters of the State of Mississippi for a period
3699 of one (1) year following such conviction. Forfeiture of any
3700 equipment or nets used in a second or subsequent offense may be
3701 instituted pursuant to Sections 49-15-201 through 49-15-207. If
3702 the person in possession of or using the nets in the violation is
3703 not the owner or licensee of the nets, the department shall notify
3704 the owner or licensee of the nets. The nets shall be subject to
3705 forfeiture unless the nets were stolen and prosecution for the
3706 theft is initiated. Equipment as used in this section shall not
3707 mean boats or vessels.

3708 (c) Any person convicted and sentenced under this
3709 section for a second or subsequent offense shall not be considered
3710 for reduction of sentence.

3711 (d) Except as provided under subsection (5) of Section
3712 49-15-45, any fines collected under this section shall be paid
3713 into the Seafood Fund.

3714 (e) In addition to any other penalties, the department
3715 may suspend the license of any person convicted of a violation of



3716 this chapter and may suspend the license of any vessel used in the
3717 violation for a period not to exceed five (5) days for the first
3718 offense. For a second offense, the department may suspend the
3719 license of such person and vessel for a period not to exceed
3720 thirty (30) days.

3721 (f) Upon conviction of five (5) seafood violations
3722 within a five-year period, the department may revoke the license
3723 of the convicted party and the boat or vessel used in the
3724 offenses, and may prohibit indefinitely the issuance of a license
3725 to the person and boat or vessel to engage in catching or taking
3726 of any seafood from the waters of the State of Mississippi. The
3727 department shall exercise this authority in accordance with the
3728 administrative procedures in Section 49-15-401 et seq.

3729 (2) For any violation of this chapter, the individual
3730 registered as the captain shall be subject to the penalties
3731 provided in this chapter, if that individual is aboard the vessel.
3732 If that individual is not aboard the vessel, the individual
3733 designated as the alternate captain under Section 49-15-46 or
3734 substitute captain under Section 49-15-64.5 shall be subject to
3735 the penalties provided in this chapter. If no individual is
3736 designated under Section 49-15-46 or Section 49-15-64.5, the
3737 person, firm or corporation owning the vessel shall be subject to
3738 the penalties provided for boat captains.

3739 (3) All citations issued to boat operators for not
3740 possessing the boat's registration card shall be dismissed, along



3741 with all related court costs, upon the presentment of the boat's
3742 proper registration card to the court or magistrate holding the
3743 trial or hearing.

3744 **SECTION 45.** Section 49-15-75, Mississippi Code of 1972, is
3745 brought forward as follows:

3746 49-15-75. (1) It shall be unlawful for any person, firm or
3747 corporation using a purse seine or having a purse seine aboard a
3748 boat or vessel within the territorial waters of the State of
3749 Mississippi to catch in excess of five percent (5%) by weight in
3750 any single set of the net or to possess in excess of ten percent
3751 (10%) by weight of the total catch any of the following species:
3752 spotted seatrout (*Cynoscion nebulosus*); bluefish (*Pomatomus*
3753 *saltatrix*); Spanish mackerel (*Scomberomorus maculatus*); king
3754 mackerel (*Scomberomorus cavalla*); dolphin (*Corphaena hippurus*);
3755 pompano (*Trachinotus carolinus*); cobia (*Rachycentron canadum*); or
3756 jack crevalle (*Caranx hippos*).

3757 (2) A person, firm or corporation convicted of a violation
3758 of this section shall be punished as provided in Section 49-15-63,
3759 Mississippi Code of 1972.

3760 **SECTION 46.** Section 49-15-80, Mississippi Code of 1972, is
3761 brought forward as follows:

3762 49-15-80. (1) (a) All vessels to be used in catching or
3763 transporting fish in the waters of the State of Mississippi for
3764 commercial purposes shall, before beginning operations, obtain an



3765 annual license from the commission and pay a license fee according
3766 to the following schedule:

3767 (i) All resident vessels engaged in commercial
3768 hook and line or gig fishing shall be issued an annual license by
3769 the commission at a fee of One Hundred Dollars (\$100.00). All
3770 nonresident vessels engaged in commercial hook and line or gig
3771 fishing shall be issued an annual license by the commission at a
3772 fee of Four Hundred Dollars (\$400.00). Each individual engaged in
3773 commercial hook and line or gig fishing must obtain a commercial
3774 fisherman license subject to the following license fees: One
3775 Hundred Dollars (\$100.00) for a resident commercial fisherman
3776 license; or Four Hundred Dollars (\$400.00) for a nonresident
3777 commercial fisherman license. If a duly licensed commercial hook
3778 and line or gig fishing vessel is engaged in commercial fishing,
3779 each individual aboard must possess a commercial fisherman
3780 license.

3781 (ii) A resident fee of One Hundred Dollars
3782 (\$100.00) or a nonresident fee of Four Hundred Dollars (\$400.00),
3783 on boats using trammel nets, gill nets or seines not more than one
3784 thousand two hundred (1,200) feet in length.

3785 (b) Beginning September 15, 1994, no nonresident shall
3786 be issued a commercial fishing license under this chapter for the
3787 taking of fish using any type of net if that nonresident's state
3788 of domicile prohibits the issuing of commercial fishing licenses
3789 to residents of this state to engage in like activity.



3790 (2) Each factory or manufacturing establishment engaging in
3791 the manufacture of oil, fish scrap, fish meal, fertilizer or other
3792 products from menhaden, shall pay a license fee of Five Hundred
3793 Dollars (\$500.00).

3794 (3) Each boat or vessel engaging in the catching, taking or
3795 transporting menhaden in the waters of the State of Mississippi,
3796 the sum of One Hundred Dollars (\$100.00) and shall pay Fifty
3797 Dollars (\$50.00) on each net, seine, trawl or purse net used in
3798 catching or taking menhaden in the waters of the State of
3799 Mississippi.

3800 **SECTION 47.** Section 49-15-81, Mississippi Code of 1972, is
3801 brought forward as follows:

3802 49-15-81. (1) The term "saltwater minnow" as used in this
3803 section shall mean any species within the families
3804 Cyprinodontidae, Fundulidae or Poeciliidae.

3805 (2) Before beginning operations to catch or transport
3806 saltwater minnows for sale, fishermen must obtain a saltwater live
3807 bait license and pay a fee according to the following schedule: A
3808 resident shall pay a fee of Fifty Dollars (\$50.00), a nonresident
3809 shall pay a fee of One Hundred Dollars (\$100.00) or if the
3810 nonresident's domicile state charges more than One Hundred Dollars
3811 (\$100.00) for residents of Mississippi to engage in a like
3812 activity, then that applicant shall pay the same fee or fees that
3813 the applicant's domicile state charges residents of Mississippi.



3814 (3) All minnow traps placed in or on the marine waters of
3815 the State of Mississippi shall have a corrosion resistant metal or
3816 plastic tag attached to the trap to permanently mark the minnow
3817 traps for ownership. The tag used to mark the traps shall be
3818 legibly and permanently stamped with letters containing the
3819 applicable licensed minnow fishermen's full name. The minimum
3820 height of the letters shall be at least three-sixteenths (3/16) of
3821 an inch. The tags shall be supplied by the minnow fisherman.

3822 (4) Licensed live bait catcher boats and licensed live bait
3823 dealers involved in the transporting of minnows are exempt from
3824 the commercial minnow licensing requirement in subsection (2) of
3825 this section.

3826 **SECTION 48.** Section 49-15-84.1, Mississippi Code of 1972, is
3827 brought forward as follows:

3828 49-15-84.1. (1) The commission may establish a closed
3829 season for the use of crab traps in the public waters of this
3830 state. The commission may designate the closed season as not less
3831 than ten (10) days nor more than thirty (30) days per year. Any
3832 crab trap remaining in the public waters after the expiration to
3833 the seventh day of a closed season may be considered as abandoned
3834 under the regulations established by the commission.

3835 (2) The commission shall adopt rules to govern the removal
3836 and disposal of abandoned crab traps as necessary to enhance:

3837 (a) The conservation and management of crab resources;

3838 (b) Boating safety;



3839 (c) The cleanliness of the beds and bottoms of the
3840 public waters of the state; and

3841 (d) Enforcement of this chapter.

3842 (3) Abandoned crab traps are litter and are subject to
3843 immediate removal and disposal.

3844 **SECTION 49.** Section 49-15-86, Mississippi Code of 1972, is
3845 brought forward as follows:

3846 49-15-86. (1) Each vessel used in catching or taking any
3847 saltwater crabs in the waters of the State of Mississippi for
3848 commercial purposes shall obtain a license from the department and
3849 shall pay an annual resident license fee of Seventy-five Dollars
3850 (\$75.00) or an annual nonresident license fee of Two Hundred
3851 Dollars (\$200.00).

3852 (2) The department may require a recreational crabber's
3853 license for an administrative fee not to exceed Five Dollars
3854 (\$5.00).

3855 **SECTION 50.** Section 49-15-95, Mississippi Code of 1972, is
3856 brought forward as follows:

3857 49-15-95. (1) It is unlawful to use brill and cast nets
3858 greater than twelve (12) feet in radius in the marine waters of
3859 the state.

3860 (2) The commission shall not prohibit the use of brill and
3861 cast nets in the waters designated in subsection (1) of this
3862 section. No person shall catch more than fifty (50) pounds of



3863 shrimp per day using brill and cast nets as provided by this
3864 section.

3865 **SECTION 51.** Section 49-15-100, Mississippi Code of 1972, is
3866 brought forward as follows:

3867 49-15-100. (1) It is unlawful for any person, firm or
3868 corporation to set a gill or trammel net in the marine waters of
3869 the state north of Highway 90.

3870 (2) (a) For a first offense, a violation of this section is
3871 punishable by a fine of not less than Two Thousand Dollars
3872 (\$2,000.00), nor more than Four Thousand Dollars (\$4,000.00) and
3873 the department may initiate forfeiture proceedings for the net and
3874 catch. For subsequent violations, a person is subject to a fine
3875 of not less than Four Thousand Dollars (\$4,000.00), nor more than
3876 Ten Thousand Dollars (\$10,000.00) and shall forfeit nets and
3877 catch. If the person in possession of or using the nets in the
3878 violation is not the owner or licensee of the nets, the department
3879 shall notify the owner or licensee of the nets. The nets shall be
3880 subject to forfeiture unless the nets were stolen and prosecution
3881 for the theft is initiated.

3882 (b) The penalties for a violation of this section shall
3883 not be suspended or reduced.

3884 **SECTION 52.** Section 49-15-100.1, Mississippi Code of 1972,
3885 is brought forward as follows:

3886 49-15-100.1. It is unlawful for any person, firm or
3887 corporation to set a gill or trammel net in the marine waters of



3888 the state north of Highway 90. Any person, firm or corporation
3889 violating this section shall be punished as provided for under
3890 Section 49-15-100 and in addition shall forfeit vessel, motor and
3891 equipment used in the violation. If the person in possession of
3892 or using the nets in the violation is not the owner or licensee of
3893 the nets, the department shall notify the owner or licensee of the
3894 nets. The nets shall be subject to forfeiture unless the nets
3895 were stolen and prosecution for the theft is initiated.

3896 **SECTION 53.** Section 49-15-100.3, Mississippi Code of 1972,
3897 is brought forward as follows:

3898 49-15-100.3. The possession of a gill net, trammel net or
3899 like contrivance, or any other equipment prohibited for use in the
3900 taking or harvesting of seafood under this chapter on a vessel on
3901 the marine waters of this state where the use of the net,
3902 contrivance or equipment is prohibited, shall constitute prima
3903 facie evidence that an offense has been committed to take or
3904 harvest seafood with nets, contrivances or equipment prohibited by
3905 this chapter, unless the vessel is:

3906 (a) Anchored or moored at a permanent facility
3907 intended for the mooring of vessels;

3908 (b) Traveling directly between a marina, harbor or
3909 public boat launching facility and a United States Coast Guard
3910 marked and maintained navigation channel; or

3911 (c) Traveling within a United States Coast Guard marked
3912 and maintained navigation channel.



3913 **SECTION 54.** Section 49-15-101, Mississippi Code of 1972, is
3914 brought forward as follows:

3915 49-15-101. The Governor of this state is hereby authorized
3916 and directed to execute a compact on behalf of the State of
3917 Mississippi with any one or more of the states of Florida,
3918 Alabama, Texas, and Louisiana, and with such other states as may
3919 enter into the compact, legally joining therein in the form
3920 substantially as follows:

3921 **GULF STATES MARINE FISHERIES COMPACT**

3922 The contracting states solemnly agree:

3923 **ARTICLE I**

3924 Whereas the Gulf Coast states have the proprietary interest
3925 in and jurisdiction over fisheries in the waters within their
3926 respective boundaries, it is the purpose of this compact to
3927 promote the better utilization of the fisheries, marine, shell and
3928 anadromous, of the seaboard of the Gulf of Mexico, by the
3929 development of a joint program for the promotion and protection of
3930 such fisheries and the prevention of the physical waste of the
3931 fisheries from any cause.

3932 **ARTICLE II**

3933 This compact shall become operative immediately as to those
3934 states ratifying it whenever any two (2) or more of the states of
3935 Florida, Alabama, Texas, Louisiana and Mississippi have ratified
3936 it and the Congress has given its consent, pursuant to Article I,
3937 Section 10, of the Constitution of the United States. Any state



3938 contiguous to any of the aforementioned states or riparian upon
3939 waters which flow into waters under the jurisdiction of any of the
3940 aforementioned states and which are frequented by anadromous fish
3941 or marine species may become a party hereto as hereinafter
3942 provided.

3943 **ARTICLE III**

3944 Each state joining herein shall appoint three (3)
3945 representatives to a commission hereby constituted and designated
3946 as the Gulf States Marine Fisheries Commission. One (1) shall be
3947 the head of the administrative agency of such state charged with
3948 the conservation of the fishery resources to which this compact
3949 pertains or, if there be more than one (1) officer or agency, the
3950 official of that state named by the governor thereof. The second
3951 shall be a member of the legislature of such state designated by
3952 such legislature or in the absence of such designation, such
3953 legislator shall be designated by the governor thereof, provided
3954 that if it is constitutionally impossible to appoint a legislator
3955 as a commissioner from such state, the second member shall be
3956 appointed in such manner as may be established by law. The
3957 legislative membership shall alternate between the Mississippi
3958 Senate and House of Representatives and the designated member
3959 shall be a member of the Senate Ports and Marine Resources
3960 Committee or the House Marine Resources Committee. The term shall
3961 be six (6) years. No legislative member from the Mississippi
3962 Senate or House of Representatives shall serve two (2) consecutive



3963 terms. The third shall be a citizen who shall have a knowledge of
3964 and interest in the marine fisheries, to be appointed by the
3965 governor. This commission shall be a body corporate with the
3966 powers and duties set forth herein.

3967 **ARTICLE IV**

3968 The duty of the said commission shall be to make inquiry and
3969 ascertain from time to time such methods, practices, circumstances
3970 and conditions as may be disclosed for bringing about the
3971 conservation and the prevention of the depletion and physical
3972 waste of the fisheries, marine, shell and anadromous, of the Gulf
3973 Coast. The commission shall have power to recommend the
3974 coordination of the exercise of the police powers of the several
3975 states within their respective jurisdictions to promote the
3976 preservation of these fisheries and their protection against
3977 overfishing, waste, depletion or any abuse whatsoever and to
3978 assure a continuing yield from the fishery resources of the
3979 aforementioned states. To that end the commission shall draft and
3980 recommend to the governors and legislatures of the various
3981 signatory states, legislation dealing with the conservation of the
3982 marine, shell and anadromous fisheries of the Gulf seaboard. The
3983 commission shall from time to time present to the governor of each
3984 compacting state its recommendations relating to enactments to be
3985 presented to the legislature of that state in furthering the
3986 interest and purposes of this compact. The commission shall
3987 consult with and advise the pertinent administrative agencies in



3988 the states party hereto with regard to problems connected with the
3989 fisheries and recommend the adoption of such regulations as it
3990 deems advisable. The commission shall have power to recommend to
3991 the states party hereto the stocking of the waters of such states
3992 with fish and fish eggs or joint stocking by some or all of the
3993 states party hereto, and when two (2) or more states shall jointly
3994 stock waters the commission shall act as the coordinating agency
3995 for such stocking.

3996 **ARTICLE V**

3997 The commission shall elect from its number a chairman and
3998 vice chairman and shall appoint and at its pleasure remove or
3999 discharge such officers and employees as may be required to carry
4000 the provisions of this compact into effect and shall fix and
4001 determine their duties, qualifications and compensation. Said
4002 commission shall adopt rules and regulations for the conduct of
4003 its business. It may establish and maintain one or more offices
4004 for the transaction of its business and may meet at any time or
4005 place but must meet at least once a year.

4006 **ARTICLE VI**

4007 No action shall be taken by the commission in regard to its
4008 general affairs except by the affirmative vote of a majority of
4009 the whole number of compacting states. No recommendation shall be
4010 made by the commission in regard to any species of fish except by
4011 the affirmative vote of a majority of the compacting states which



4012 have an interest in such species. The commission shall define
4013 what shall be an interest.

4014 **ARTICLE VII**

4015 The Fish and Wildlife Service of the Department of the
4016 Interior of the Government of the United States shall act as the
4017 primary research agency of the Gulf States Marine Fisheries
4018 Commission cooperating with the research agencies in each state
4019 for that purpose. Representatives of the said Fish and Wildlife
4020 Service shall attend the meetings of the commission. An advisory
4021 committee to be representative of the commercial saltwater
4022 fishermen and the saltwater anglers and such other interests of
4023 each state as the commissioners deem advisable may be established
4024 by the commissioners from each state for the purpose of advising
4025 those commissioners upon such recommendations as it may desire to
4026 make.

4027 **ARTICLE VIII**

4028 When any state other than those named specifically in Article
4029 II of this compact shall become a party hereto for the purpose of
4030 conserving its anadromous fish or marine species in accordance
4031 with the provisions of Article II, the participation of such state
4032 in the action of the commission shall be limited to such species
4033 of fish.

4034 **ARTICLE IX**

4035 Nothing in this compact shall be construed to limit the
4036 powers of the proprietary interest of any signatory state or to



4037 repeal or prevent the enactment of any legislation or the
4038 enforcement of any requirement by a signatory state imposing
4039 additional conditions and restrictions to conserve its fisheries.

4040 **ARTICLE X**

4041 It is agreed that any two (2) or more states party hereto may
4042 further amend this compact by acts of their respective
4043 legislatures, subject to approval of Congress as provided in
4044 Article I, Section * * * 10, of the Constitution of the United
4045 States, to designate the Gulf States Marine Fisheries Commission
4046 as a joint regulating authority for the joint regulation of
4047 specific fisheries affecting only such states as shall so compact,
4048 and at their joint expense. The representatives of such states
4049 shall constitute a separate section of the Gulf States Marine
4050 Fisheries Commission for the exercise of the additional powers so
4051 granted but the creation of such section shall not be deemed to
4052 deprive the states so compacting of any of their privileges or
4053 powers in the Gulf States Marine Fisheries Commission as
4054 constituted under the other articles of this compact.

4055 **ARTICLE XI**

4056 Continued absence of representation or of any representative
4057 on the commission from any state party hereto shall be brought to
4058 the attention of the governor thereof.

4059 **ARTICLE XII**

4060 The operating expenses of the Gulf States Marine Fisheries
4061 Commission shall be borne by the states party hereto. Such



4062 initial appropriations as set forth below shall be made available
4063 yearly until modified as hereinafter provided:
4064 Florida.....\$ 3,600.00
4065 Alabama..... 1,000.00
4066 Mississippi..... 1,000.00
4067 Louisiana..... 5,000.00
4068 Texas..... 2,500.00
4069 Total.....\$13,100.00

4070 The proration and total cost per annum of Thirteen Thousand
4071 One Hundred Dollars (\$13,100.00), above mentioned, is estimative
4072 only, for initial operations, and may be changed when found
4073 necessary by the commission. Each state party hereto agrees to
4074 provide in the manner most acceptable to it, the travel cost and
4075 necessary expenses of its commissioners and other representatives
4076 to and from meetings of the commission or its duly constituted
4077 sections or committees.

4078 **ARTICLE XIII**

4079 This compact shall continue in force and remain binding upon
4080 each compacting state until renounced by act of the legislature of
4081 such state, in such form as it may choose; provided that such
4082 renunciation shall not become effective until six (6) months after
4083 the effective date of the action taken by the legislature. Notice
4084 of such renunciation shall be given the other states party hereto
4085 by the Secretary of State of compacting state so renouncing upon
4086 passage of the act.



4087 **SECTION 55.** Section 49-15-309, Mississippi Code of 1972, is
4088 brought forward as follows:

4089 49-15-309. (1) The department is hereby authorized and
4090 directed to establish and maintain a saltwater recreational
4091 fishing record list of marine fish taken in the state.

4092 (2) The department shall direct fisheries biologists of the
4093 department to seek records from fishing rodeos, tournaments or
4094 other valid sources of the largest fish of each marine species
4095 commonly occurring in the waters of the state.

4096 (3) The department shall declare the initial listing as the
4097 official state saltwater records.

4098 (4) The department shall establish criteria for maintaining
4099 and updating the official records list.

4100 (5) The department is hereby directed to present all state
4101 record holders with a certification of achievement in marine
4102 recreational fishing.

4103 **SECTION 56.** Section 49-15-313, Mississippi Code of 1972, is
4104 brought forward as follows:

4105 49-15-313. (1) Any resident between the ages of sixteen
4106 (16) and sixty-five (65) years, as defined in Section 49-7-3,
4107 fishing in the marine waters of the state, shall obtain a
4108 saltwater sports fishing license for a fee of Ten Dollars
4109 (\$10.00). A resident sixty-five (65) years of age or older,
4110 fishing in the marine waters of the state, shall obtain a lifetime
4111 saltwater sports fishing license for a one-time fee of Five



4112 Dollars (\$5.00). These licenses shall be valid in any waters
4113 south of Interstate 10. Any resident citizen who is blind,
4114 paraplegic or a multiple amputee, or who has been adjudged by the
4115 Veterans Administration as having a total service-connected
4116 disability, or has been adjudged totally disabled by the Social
4117 Security Administration shall not be required to purchase or have
4118 in his possession a saltwater sports fishing license while engaged
4119 in such activities. Any resident exempt under this section shall
4120 have on his person while fishing proof of residency and age or
4121 disability. Any resident who is a member of the Armed Forces,
4122 including the Reserves and National Guard, and on active duty
4123 outside the State of Mississippi is not required to purchase or
4124 have in his possession a hunting or fishing license while engaged
4125 in such activities on leave from active duty. Such resident shall
4126 have in his possession and on his person such proof as may be
4127 required by the commission.

4128 (2) The commission shall prescribe the forms, types and fees
4129 for nonresident saltwater sports fishing licenses except that the
4130 fee for a nonresident saltwater sports fishing license shall not
4131 be less than Twenty Dollars (\$20.00). This minimum fee shall not
4132 apply to nonresidents sixty-five (65) years of age or older. The
4133 commission may enter into reciprocal agreements with adjacent
4134 states pertaining to fees and exemptions for persons sixty-five
4135 (65) years of age or older. The commission shall require a
4136 nonresident to purchase a nonresident freshwater fishing license



4137 and a nonresident saltwater sports fishing license if the
4138 nonresident's state requires both licenses for a nonresident to
4139 fish in its marine waters. Any nonresident sixty-five (65) years
4140 of age or older shall possess a saltwater sports fishing license.

4141 (3) All resident vessels engaged in charter boat fishing,
4142 party boat fishing, head boat and guide boat fishing shall be
4143 issued a separate annual license by the commission at a fee of Two
4144 Hundred Dollars (\$200.00). All nonresident vessels engaged in
4145 charter boat fishing, party boat fishing, head boat and guide boat
4146 fishing shall be issued a separate annual license by the
4147 commission. In addition to other requirements for charter license
4148 eligibility, captains must show proof of participation in a
4149 Department of Transportation approved random drug testing program
4150 and proof of liability insurance as a charter boat captain. Crew
4151 members and customers of the licensed vessels shall not be
4152 required to purchase an individual resident or nonresident
4153 saltwater fishing license while sponsored by the licensed vessels.
4154 An operator of a licensed vessel shall be required to report the
4155 number of customers to the department as required by the
4156 commission and the information shall be kept confidential and
4157 shall not be released, except to other fisheries management
4158 agencies or as statistical data. All nonresident vessels engaged
4159 in saltwater sport fishing tournaments, not to exceed an aggregate
4160 of twenty (20) days per calendar year, shall not be required to
4161 purchase an annual license as provided under this subsection.



4162 (4) The saltwater sports fishing license is required for all
4163 recreational methods of finfish harvest.

4164 (5) Any resident who purchases a lifetime sportsman's
4165 license, in accordance with Section 49-7-153, shall be entitled to
4166 fish in the marine salt waters of the state and shall be exempt
4167 from the purchase of a sport saltwater fishing license.

4168 (6) Any person authorized to issue a license may collect and
4169 retain, for each saltwater fishing license issued, the additional
4170 fee authorized under Section 49-7-17.

4171 (7) The fees collected from the sale of resident and
4172 nonresident saltwater sports fishing licenses shall be deposited
4173 into the Seafood Fund and shall be used solely for the management
4174 of marine resources.

4175 (8) Participants in the Very Special Fishing Olympics are
4176 exempt from this section.

4177 (9) The first weekend of "National Fishing and Boating Week"
4178 in June of each year is designated as "Free Fishing Weekend," and
4179 July 4 of each year is designated as "Free Saltwater Sports
4180 Fishing Day." Any person may saltwater sport fish without a
4181 license on "Free Saltwater Sports Fishing Day" and during "Free
4182 Fishing Weekend."

4183 (10) The department may exempt participants in an organized
4184 fishing event conducted by a qualified nonprofit charitable,
4185 governmental or civic organization from the requirements of this
4186 section for one (1) day per year if the organization files an



4187 exemption application with the department and the application is
4188 approved by the department.

4189 **SECTION 57.** Section 49-17-1, Mississippi Code of 1972, is
4190 brought forward as follows:

4191 49-17-1. Sections 49-17-1 through 49-17-43 may be cited as
4192 the "Mississippi Air and Water Pollution Control Law."

4193 **SECTION 58.** Section 49-17-3, Mississippi Code of 1972, is
4194 brought forward as follows:

4195 49-17-3. Whereas, the pollution of the air and waters of the
4196 state constitutes a menace to public health and welfare, creates a
4197 public nuisance, is harmful to wildlife, fish and aquatic life,
4198 and impairs domestic, agricultural, industrial, recreational and
4199 other legitimate beneficial uses of air and water, and whereas,
4200 the problem of air and water pollution in this state is closely
4201 related to the problem of air and water pollution in adjoining
4202 states, it is hereby declared to be the public policy of this
4203 state to conserve the air and waters of the state and to protect,
4204 maintain and improve the quality thereof for public use, for the
4205 propagation of wildlife, fish and aquatic life, and for domestic,
4206 agricultural, industrial, recreational and other legitimate
4207 beneficial uses; to maintain such a reasonable degree of quality
4208 of the air resources of the state to protect the health, general
4209 welfare and physical property of the people, and to provide that
4210 no waste be discharged into any waters of the state without first
4211 receiving the necessary treatment or other corrective action to



4212 protect the legitimate beneficial uses of such waters; to provide
4213 for the prevention, abatement and control of new or existing air
4214 or water pollution; and to cooperate with other agencies of the
4215 state, agencies of other states, and the federal government in
4216 carrying out these objectives.

4217 **SECTION 59.** Section 49-17-5, Mississippi Code of 1972, is
4218 brought forward as follows:

4219 49-17-5. For the purposes of Sections 49-17-1 through
4220 49-17-43, the following words and phrases shall have the meanings
4221 ascribed to them in this section:

4222 (1) **Water.**

4223 (a) "Pollution" means such contamination, or other
4224 alteration of the physical, chemical or biological properties, of
4225 any waters of the state, including change in temperature, taste,
4226 color, turbidity, or odor of the waters, or such discharge of any
4227 liquid, gaseous, solid, radioactive, or other substance or leak
4228 into any waters of the state unless in compliance with a valid
4229 permit issued therefor by the Permit Board.

4230 (b) "Wastes" means sewage, industrial wastes, oil field
4231 wastes, and all other liquid, gaseous, solid, radioactive, or
4232 other substances which may pollute or tend to pollute any waters
4233 of the state.

4234 (c) "Sewerage system" means pipelines or conduits,
4235 pumping stations, and force mains, and other structures, devices,



4236 appurtenances and facilities used for collecting or conducting
4237 wastes to an ultimate point for treatment or disposal.

4238 (d) "Treatment works" means any plant or other works,
4239 used for the purpose of treating, stabilizing or holding wastes.

4240 (e) "Disposal system" means a system for disposing of
4241 wastes, either by surface or underground methods, and includes
4242 sewerage systems, treatment works, disposal wells and other
4243 systems.

4244 (f) "Waters of the state" means all waters within the
4245 jurisdiction of this state, including all streams, lakes, ponds,
4246 impounding reservoirs, marshes, watercourses, waterways, wells,
4247 springs, irrigation systems, drainage systems, and all other
4248 bodies or accumulations of water, surface and underground, natural
4249 or artificial, situated wholly or partly within or bordering upon
4250 the state, and such coastal waters as are within the jurisdiction
4251 of the state, except lakes, ponds or other surface waters which
4252 are wholly landlocked and privately owned, and which are not
4253 regulated under the Federal Clean Water Act (33 USCS 1251 et
4254 seq.).

4255 (g) "Underground water" means an underground source of
4256 drinking water as defined within the regulations of the Federal
4257 Safe Drinking Water Act.

4258 (2) **Air.**



4259 (a) "Air contaminant" means particulate matter, dust,
4260 fumes, gas, mist, smoke or vapor, or any combination thereof,
4261 produced by processes other than natural.

4262 (b) "Air pollution" means the presence in the outdoor
4263 atmosphere of one or more air contaminants in quantities, of
4264 characteristic, and of a duration which are materially injurious
4265 or can be reasonably expected to become materially injurious to
4266 human, plant or animal life or to property, or which unreasonably
4267 interfere with enjoyment of life or use of property throughout the
4268 state or throughout such area of the state as shall be affected
4269 thereby.

4270 (c) "Air contamination" means the presence in the
4271 outdoor atmosphere of one or more air contaminants which
4272 contribute to a condition of air pollution.

4273 (d) "Air contamination source" means any source at,
4274 from, or by reason of which there is emitted into the atmosphere
4275 any air contaminant, regardless of who the person may be who owns
4276 or operates the building, premises or other property in, at, or on
4277 which such source is located, or the facility, equipment or other
4278 property by which the emission is caused or from which the
4279 emission comes.

4280 (e) "Air-cleaning device" means any method, process or
4281 equipment, the primary function of which is to remove, reduce or
4282 render less noxious air contaminants discharged into the
4283 atmosphere.



4284 (f) "Area of the state" means any city or county or
4285 portion thereof, or other substantial geographical area of the
4286 state as may be designated by the Mississippi Commission on
4287 Environmental Quality.

4288 (g) "Federal Clean Air Act" means the Federal Clean Air
4289 Act, 42 USCS 7401 et seq., as amended.

4290 (3) **General.**

4291 (a) "Commission" means the Mississippi Commission on
4292 Environmental Quality acting through the Office of Pollution
4293 Control of the Department of Environmental Quality.

4294 (b) "Person" means the state or other agency or
4295 institution thereof, any municipality, political subdivision,
4296 public or private corporation, individual, partnership,
4297 association or other entity, and includes any officer or governing
4298 or managing body of any municipality, political subdivision, or
4299 public or private corporation, or the United States or any officer
4300 or employee thereof.

4301 (c) "Pollution Emergency Fund" means the fund
4302 established under Section 49-17-68.

4303 (d) "General permit" means a permit for categories of
4304 sources that involve similar wastes and have similar monitoring
4305 requirements and restrictions.

4306 **SECTION 60.** Section 49-17-7, Mississippi Code of 1972, is
4307 brought forward as follows:



4308 49-17-7. (1) The Mississippi Commission on Environmental
4309 Quality shall be the Mississippi Air and Water Pollution Control
4310 Commission, and shall exercise the duties and responsibilities of
4311 the Mississippi Air and Water Pollution Control Commission through
4312 the Mississippi Department of Environmental Quality.

4313 (2) The words "Mississippi Air and Water Pollution Control
4314 Commission" wherever they may appear in the laws of the State of
4315 Mississippi shall be construed to mean the Mississippi Commission
4316 on Environmental Quality.

4317 **SECTION 61.** Section 49-17-13, Mississippi Code of 1972, is
4318 brought forward as follows:

4319 49-17-13. (1) The commission is hereby designated as the
4320 pollution control agency for this state to administer federal
4321 pollution control legislation and programs and interstate or
4322 regional agreements pertaining to solid or hazardous waste
4323 management.

4324 (2) The commission shall have the right to call upon and
4325 receive the assistance of any officer, board, department, school,
4326 university or any other state agency, and officers and employees
4327 thereof, for any reasonable assistance necessary or beneficial in
4328 carrying out the provisions of Sections 49-17-1 through 49-17-43.

4329 **SECTION 62.** Section 49-17-14, Mississippi Code of 1972, is
4330 brought forward as follows:

4331 49-17-14. (1) "Title V program" means, as used in Sections
4332 49-17-1 through 49-17-45, the air operating permit program



4333 mandated in Title V of the 1990 amendments to the federal Clean
4334 Air Act, codified in 42 USCS Section 7661, et seq.

4335 (2) There is created in the State Treasury a fund to be
4336 designated as the "Air Operating Permit Program Fee Trust Fund,"
4337 referred to hereinafter as the "fund."

4338 (3) The fund shall be treated as a special trust fund.
4339 Interest earned on the principal therein shall be credited by the
4340 Treasurer to the fund.

4341 (4) The fund may receive monies from any available public or
4342 private source including, but not limited to, collection of fees,
4343 interest, grants, taxes, public and private donations and judicial
4344 actions.

4345 (5) To facilitate the proper administration of the fund, the
4346 commission is authorized to promulgate rules and regulations for
4347 the administration of the fund.

4348 (6) The commission shall expend or utilize monies in the
4349 fund by an annual appropriation approved by the Legislature to pay
4350 all reasonable direct and indirect costs associated with the
4351 development and administration of the Title V program including,
4352 but not limited to, the reasonable costs of the following
4353 activities as they relate to the Title V program:

4354 (a) Preparing generally applicable regulations or
4355 guidance regarding the permit program or its implementation or
4356 enforcement;



4357 (b) Reviewing and acting on any application for a
4358 permit, permit modification or permit renewal, including the
4359 development of an applicable requirement as part of the processing
4360 of a permit, or permit modification or renewal;

4361 (c) Administering the permit program, including the
4362 supporting and tracking of permit applications, compliance
4363 certification, and related data entry;

4364 (d) Implementing and enforcing the terms of any Title V
4365 permit (not including any court costs or other costs associated
4366 with an enforcement action), including adequate resources to
4367 determine which sources are subject to the program;

4368 (e) Emissions and ambient monitoring;

4369 (f) Modeling, analyses, or demonstrations;

4370 (g) Preparing inventories and tracking emissions;

4371 (h) Providing direct and indirect support to sources
4372 under the Small Business Stationary Source Technical and
4373 Environmental Compliance Assistance Program under Section 507 of
4374 the federal Clean Air Act in determining and meeting their
4375 obligations under this section; and

4376 (i) Providing funding to the Advisory Council created
4377 in Section 49-17-16 in an amount reasonably sufficient to meet the
4378 Advisory Council's obligations under Sections 49-17-1 through
4379 49-17-45.

4380 (7) Monies in the fund at the end of the fiscal year shall
4381 be retained in the fund for use in the next succeeding fiscal



4382 year. If the fund balance at the end of the fiscal year exceeds
4383 thirty-three percent (33%) of the projected annual costs of
4384 administering the program, the assessment rates may be adjusted to
4385 reduce the future projected fund balance. If necessary, the
4386 assessment rates shall be adjusted during the setting of the next
4387 fee schedule.

4388 (8) At no time shall a fee be assessed that results in a
4389 projected ending fund balance of more than the current annual cost
4390 of administering the Title V program.

4391 (9) No such fees shall be utilized by the Department of
4392 Environmental Quality or any other person for any purpose or
4393 purposes other than those purposes required by Sections 49-17-1
4394 through 49-17-45, as they relate to the Title V program.

4395 **SECTION 63.** Section 49-17-16, Mississippi Code of 1972, is
4396 brought forward as follows:

4397 49-17-16. (1) (a) An Advisory Council, hereinafter
4398 referred to as "Advisory Council," is created to conduct an
4399 independent study of the costs for the development and
4400 administration of the Title V program within the Department of
4401 Environmental Quality and to conduct an annual review of the costs
4402 of administering such programs.

4403 (b) The costs to be included within the study for the
4404 Title V program shall be those costs set forth in Section
4405 49-17-14. After completing a study of the program needs and
4406 costs, the Advisory Council shall recommend an equitable fee



4407 system for the Title V program. The annual review of the Title V
4408 program shall determine if the fee system is collecting sufficient
4409 funds to meet the program needs. The Advisory Council shall
4410 recommend an appropriate fee schedule for the upcoming fee year
4411 and, if necessary, recommend changes to the existing fee system so
4412 that sufficient funds are collected through an equitable fee
4413 system. Each annual review report shall be due January 1 of each
4414 year to the commission and the Executive Director of the
4415 Department of Environmental Quality.

4416 (2) The Department of Environmental Quality shall assist the
4417 Advisory Council by providing any information the Advisory Council
4418 may require to perform its duties under Sections 49-17-1 through
4419 49-17-45.

4420 (3) The Advisory Council shall be composed of the following
4421 seven (7) persons appointed as follows: three (3) representatives
4422 of industries that qualify for inclusion under the Title V
4423 program, that are required to pay the program fee, with one (1)
4424 such representative to be appointed by the Governor, one (1) by
4425 the Lieutenant Governor and one (1) by the Speaker of the House of
4426 Representatives; the Executive Director of the Mississippi
4427 Development Authority; the President of the Mississippi
4428 Manufacturers Association; the President of the Mississippi Farm
4429 Bureau Federation; and the Chairman of the Mississippi Small
4430 Business Compliance Advisory Panel. Nonappointed members of the
4431 Advisory Council may designate an alternate member to act in their



4432 stead in performing any function of the Advisory Council. The
4433 length of term for each member of the Advisory Council shall be
4434 four (4) years. Members of the Advisory Council may serve
4435 successive and multiple terms.

4436 (4) Vacancies on the Advisory Council shall be filled by
4437 appointment in the same manner as the original appointments.

4438 (5) The Advisory Council shall select from their membership
4439 a chairperson to preside over meetings and a vice chairperson to
4440 preside in the absence of the chairperson or when the chairperson
4441 shall be excused. The Advisory Council shall adopt procedures
4442 governing the manner of conducting its business. A majority of
4443 the members shall constitute a quorum to do business.

4444 (6) Members of the Advisory Council shall serve without
4445 salary. The members of the Advisory Council shall be entitled to
4446 receive reimbursement of their actual travel and hotel expenses as
4447 provided in Section 25-3-41, incurred while in the performance of
4448 their duties as members of the Advisory Council to be paid on an
4449 itemized statement approved by the State Fiscal Officer. Expenses
4450 shall be paid from fees collected in accordance with Section
4451 49-17-30.

4452 (7) The Executive Director of the Department of
4453 Environmental Quality shall provide technical, clerical and other
4454 support services, including services by contract, as the Advisory
4455 Council determines that it requires in the performance of its
4456 functions.



4457 **SECTION 64.** Section 49-17-17, Mississippi Code of 1972, is
4458 brought forward as follows:

4459 49-17-17. The commission shall have and may exercise the
4460 following powers and duties:

4461 (a) General supervision of the administration and
4462 enforcement of Sections 49-17-1 through 49-17-43 and Sections
4463 17-17-1 through 17-17-47, and all rules and regulations and orders
4464 promulgated thereunder;

4465 (b) To develop comprehensive programs for the
4466 prevention, control and abatement of new or existing pollution of
4467 the air and waters of the state;

4468 (c) To advise, consult, cooperate, or enter into
4469 contracts, grants and cooperative agreements with any federal or
4470 state agency or subdivision thereof, other states and interstate
4471 agencies, or any public or private institution located inside or
4472 outside the State of Mississippi, and with affected groups,
4473 political subdivisions, and industries in furtherance of carrying
4474 out the provisions of Sections 49-17-1 through 49-17-43 and shall
4475 have the authority to enter into compacts with any other state or
4476 states for the purpose of achieving the objectives of such
4477 sections with respect to air and waters, or to authorize the
4478 executive director with the approval of the commission to exercise
4479 any of the aforementioned powers;

4480 (d) To administer funds allocated to the state's water
4481 and air pollution abatement grant program, to accept and



4482 administer loans and grants from the federal government and from
4483 other sources, public or private, for carrying out any of its
4484 functions, which loans and grants shall not be expended for other
4485 than the purposes for which provided;

4486 (e) To encourage, participate in, or conduct studies,
4487 investigations, research and demonstrations relating to air and
4488 water quality and pollution and causes, prevention, control and
4489 abatement as it may deem advisable and necessary for the discharge
4490 of its duties under Sections 49-17-1 through 49-17-43; to make
4491 funds available from the Water Pollution Abatement Grant Fund by
4492 means of advances to political subdivisions in this state in an
4493 amount not to exceed one percent (1%) of the estimated project
4494 cost as approved by and under such rules and regulations as
4495 adopted by the commission for the preparation of project planning
4496 reports and feasibility analyses; and to exercise such supervision
4497 as it may deem advisable and necessary for the discharge of its
4498 duties under Sections 49-17-1 through 49-17-43;

4499 (f) To require the repayment of funds made available to
4500 a political subdivision under subsection (e) above to the Water
4501 Pollution Abatement Grant Fund prior to the receipt of any other
4502 funds by any political subdivision providing services to the area
4503 and receiving funds provided under Sections 49-17-1 through
4504 49-17-43; any funds made available to any political subdivisions
4505 providing services to the area and receiving funds under the
4506 provisions of said sections shall be repaid in the same manner as



4507 are other funds made available to the political subdivisions under
4508 the provisions of said sections;

4509 (g) To collect and disseminate information relating to
4510 air and water quality and pollution and the prevention, control,
4511 supervision and abatement thereof;

4512 (h) To adopt, modify or repeal and promulgate ambient
4513 air and water quality standards and emissions standards for the
4514 state under such conditions as the commission may prescribe for
4515 the prevention, control and abatement of pollution;

4516 (i) To adopt, modify, repeal, and promulgate, after due
4517 notice and hearing, and, where not otherwise prohibited by federal
4518 or state law, to make exceptions to and grant exemptions and
4519 variances from, and to enforce rules and regulations implementing
4520 or effectuating the powers and duties of the commission under
4521 Sections 49-17-1 through 49-17-43 and Sections 17-17-1 through
4522 17-17-47, and as the commission may deem necessary to prevent,
4523 control and abate existing or potential pollution;

4524 (j) To issue, modify, or revoke orders (1) prohibiting,
4525 controlling or abating discharges of contaminants and wastes into
4526 the air and waters of the state; (2) requiring the construction of
4527 new disposal systems, or air-cleaning devices, or any parts
4528 thereof, or the modification, extension or alteration of existing
4529 disposal systems, or air-cleaning devices, or any parts thereof,
4530 or the adoption of other remedial measures to prevent, control or
4531 abate air and water pollution; and (3) setting standards of air or



4532 water quality or evidencing any other determination by the
4533 commission under Sections 49-17-1 through 49-17-43;

4534 (k) To hold such hearings, to issue notices of hearing
4535 and subpoenas requiring the attendance of such witnesses and the
4536 production of such evidence, to administer oaths, and to take such
4537 testimony as the commission deems necessary;

4538 (l) To require the prior submission of plans,
4539 specifications and other data relative to, and to inspect the
4540 construction of, disposal systems, or air-cleaning devices, or any
4541 part thereof, in connection with the issuance of such permits or
4542 approval as are required by Sections 49-17-1 through 49-17-43;

4543 (m) To require proper maintenance and operation of
4544 disposal systems, or air-cleaning devices; and to require the
4545 installation and operation of monitoring devices or methods as may
4546 be deemed necessary and the maintenance and submission of
4547 monitoring and operating records as may be prescribed;

4548 (n) To exercise all incidental powers necessary to
4549 carry out the purposes of Sections 49-17-1 through 49-17-43 and
4550 Sections 17-17-1 through 17-17-47; and

4551 (o) To delegate in such manner as it sees fit the
4552 duties and powers relating to air and water quality and pollution
4553 control to the agency members presently engaged in the several
4554 fields of water or air control of pollution. In cases of
4555 difference of opinion between such agencies as to their respective
4556 field of operation, the commission shall delegate said



4557 responsibility to the proper agency, and the commission's action
4558 therein shall be final.

4559 Nothing contained in this section shall be deemed to grant to
4560 the commission any jurisdiction or authority to make any rule or
4561 regulation, recommendation or determination or to enter any order
4562 with respect to air conditions existing solely within the property
4563 boundaries of commercial and industrial plants, works, or shops or
4564 to affect the relations between employers and employees with
4565 respect to or arising out of any air condition.

4566 **SECTION 65.** Section 49-17-19, Mississippi Code of 1972, is
4567 brought forward as follows:

4568 49-17-19. In order to carry out the purposes of Sections
4569 49-17-1 through 49-17-43, the commission may set ambient standards
4570 of air and water quality for the state or portions thereof. Such
4571 ambient standards of quality shall be such as to protect the
4572 public health and welfare and the present and prospective future
4573 use of such air and of such waters for public water supplies,
4574 propagation of fish and aquatic life and wildlife, recreational
4575 purposes, and agricultural, industrial and other legitimate uses.
4576 Such ambient standards may be amended from time to time as
4577 determined to be necessary by the commission. In order to carry
4578 out the purposes of Sections 49-17-1 through 49-17-43, the
4579 commission may also set emission standards for the purpose of
4580 controlling air contamination, air pollution and the sources
4581 thereof. In establishing ambient air quality standards for odor,



4582 the commission shall adopt recognized objective standards if they
4583 exist. In the absence of a recognized objective ambient air
4584 quality standard for odor, the commission may adopt such
4585 subjective standards as may be appropriate.

4586 In establishing such standards relating to pesticides and
4587 commercial fertilizers for underground water, the commission shall
4588 adopt federal standards if they exist. If no federal standard
4589 exists, the commission shall petition the United States
4590 Environmental Protection Agency to establish a federal standard
4591 for the substance of interest. If the commission determines that
4592 a federal standard cannot be obtained within thirty (30) days, it
4593 shall consult with the United States Environmental Protection
4594 Agency's Office of Drinking Water and Office of Pesticide Programs
4595 regarding the agency's conclusion relative to available
4596 toxicological information on the substance of interest and on the
4597 methodology used for establishing a federal standard. The
4598 commission shall utilize this information and methodology to
4599 establish a standard. The commission may also consult with and
4600 request similar information from other sources.

4601 **SECTION 66.** Section 49-17-21, Mississippi Code of 1972, is
4602 brought forward as follows:

4603 49-17-21. (a) The commission or its duly authorized
4604 representative shall have the power to enter at reasonable times
4605 upon any private or public property, and the owner, managing agent
4606 or occupant of any such property shall permit such entry for the



4607 purpose of inspecting and investigating conditions relating to
4608 pollution or the possible pollution of any air or waters of the
4609 state and to have access to such records as the commission may
4610 require under subsection (b) of this section.

4611 (b) The commission may require the maintenance of records
4612 relating to the operation of air contamination sources or water
4613 disposal systems, and any authorized representative of the
4614 commission may examine and copy any such records or memoranda
4615 pertaining to the operation of such air contamination source or
4616 water disposal system. The records shall contain such information
4617 as the commission may require. Copies of such records shall be
4618 submitted to the commission upon request.

4619 (c) The commission may conduct, authorize or require tests
4620 and take samples of air contaminants or waste waters, fuel,
4621 process material or other material which affects or may affect (1)
4622 emission of air contaminants from any source, or (2) waste water
4623 disposal systems. Upon request of the commission, the person
4624 responsible for the source to be tested shall provide necessary
4625 sampling ports in stacks or ducts and such other safe and proper
4626 sampling and testing facilities as may be necessary for proper
4627 determination of the emission of air contaminants. If an
4628 authorized employee of the commission during the course of any
4629 inspection obtains a sample of air contaminant, fuel, process
4630 material or other material, he shall give the owner or operator of
4631 the equipment or fuel facility a receipt for the sample obtained.



4632 (d) The commission may require the installation, maintenance
4633 and use of such monitoring equipment and methods at such locations
4634 and intervals as the commission deems necessary.

4635 **SECTION 67.** Section 49-17-22, Mississippi Code of 1972, is
4636 brought forward as follows:

4637 49-17-22. The Commission on Marine Resources is hereby
4638 authorized to cooperate with the Commission on Environmental
4639 Quality for the enforcement of the provisions of Sections 49-17-1
4640 through 49-17-43 in and on the salt waters of the State of
4641 Mississippi.

4642 **SECTION 68.** Section 49-17-23, Mississippi Code of 1972, is
4643 brought forward as follows:

4644 49-17-23. The commission shall keep the minutes of the
4645 commission, including all orders, rules and regulations
4646 promulgated, in a record book, or books, especially prepared for
4647 that purpose.

4648 All minutes of commission meetings and hearings, and all
4649 rules, regulations, and orders made by the commission shall be in
4650 writing and shall be filed in full by the commission in a book for
4651 such purposes, to be kept by the commission which shall be a
4652 public record and open to inspection by the public at all times
4653 during all reasonable hours. The commission shall compile and
4654 publish annually the rules and regulations promulgated by the
4655 commission in current consolidated version. The commission shall
4656 provide the consolidated compilation of the rules and regulations



4657 to the public for a cost sufficient to cover printing and postage
4658 and administrative expenses, including the cost of any contractual
4659 services necessary to compile and publish such rules and
4660 regulations on an annual basis. A copy of any rule, minutes,
4661 regulation or order certified by the commission shall be received
4662 in evidence in all courts of this state with the same effect as
4663 the original. The commission shall compile and index on a current
4664 date basis all orders of the commission in a book for such
4665 purposes that shall be available for inspection and copying by the
4666 public. All responsibilities of the commission pursuant to this
4667 section may be delegated by the commission to the executive
4668 director.

4669 **SECTION 69.** Section 49-17-25, Mississippi Code of 1972, is
4670 brought forward as follows:

4671 49-17-25. (1) Prior to the adoption, amendment or repeal of
4672 rules and regulations necessary to implement this chapter,
4673 Sections 17-17-1 through 17-17-47, Sections 21-27-201 through
4674 21-27-221, Sections 37-138-1 through 37-138-31, and all other laws
4675 administered by the department, the commission shall conduct a
4676 public hearing or hearings thereon after public notice. Such
4677 notice shall be given by publication once a week for three (3)
4678 successive weeks in a newspaper having a general circulation
4679 throughout the state. The notice shall contain a description of
4680 the proposed regulation and the time, date and place of the
4681 hearing.



4682 (2) Additionally, the adoption, amendment or repeal of any
4683 rule or regulation under this chapter, Sections 17-17-1 through
4684 17-17-47, Sections 21-27-201 through 21-27-221, Sections 37-138-1
4685 through 37-138-31 and all other laws administered by the
4686 department shall be governed by the "Mississippi Administrative
4687 Procedures Law." Any rule or regulation heretofore or hereafter
4688 adopted, amended or repealed in substantial compliance with the
4689 procedural requirements under Section 25-43-7 shall be valid. A
4690 proceeding to contest any rule or regulation on the ground of
4691 noncompliance with the procedural requirements of this section
4692 must be commenced within one (1) year from the effective date of
4693 the rule or regulation.

4694 (3) Notice of rules and regulations adopted by the
4695 commission shall be published once in a newspaper having general
4696 circulation throughout the state.

4697 **SECTION 70.** Section 49-17-26, Mississippi Code of 1972, is
4698 brought forward as follows:

4699 49-17-26. If the commission determines, after adequate
4700 scientific investigation and evaluation, that a chemical as
4701 defined in Sections 69-23-3 and 75-47-5(a) in the underground
4702 water exceeds or is likely to exceed duly adopted state standards
4703 and that the source of the chemical is not within the regulatory
4704 jurisdiction of the commission, the commission shall notify the
4705 Department of Agriculture and Commerce, which shall proceed in
4706 accordance with Section 69-23-7 and other existing laws.



4707 **SECTION 71.** Section 49-17-27, Mississippi Code of 1972, is
4708 brought forward as follows:

4709 49-17-27. In the event an emergency is found to exist by the
4710 commission, it may issue an emergency order as circumstances may
4711 require. Said emergency order shall become operative at the time
4712 and date designated therein and shall remain in force until
4713 modified or cancelled by the commission or superseded by a regular
4714 order of the commission or for a period of forty-five (45) days
4715 from its effective date, whichever shall occur first, and may be
4716 enforced by an injunction if necessary.

4717 The chancery court shall always be deemed open for hearing
4718 requests for injunctions to enforce such emergency orders and the
4719 same shall have precedence over other matters.

4720 When, in the opinion of the commission or its executive
4721 director, an emergency situation exists which creates an imminent
4722 and substantial endangerment threatening the public health and
4723 safety or the lives and property of the people of this state,
4724 notice shall be given immediately to local governing authorities,
4725 both county and municipal, the state emergency management
4726 organization, and the governor for appropriate action in
4727 accordance with applicable laws for protections against disaster
4728 situations.

4729 **SECTION 72.** Section 49-17-28, Mississippi Code of 1972, is
4730 brought forward as follows:



4731 49-17-28. (1) There is created a Permit Board for the
4732 purpose of issuing, reissuing, modifying, revoking or denying,
4733 under the conditions, limitations and exemptions prescribed in
4734 Section 49-17-29: (a) permits to control or prevent the discharge
4735 of contaminants and wastes into the air and waters of the state;
4736 (b) permits required under the Solid Wastes Disposal Law of 1974
4737 (Title 17, Chapter 17); (c) permits required under Sections 51-3-1
4738 through 51-3-55; (d) water quality certifications required by
4739 Section 401 of the federal Clean Water Act; and (e) all other
4740 permits within the jurisdiction of the Permit Board. The
4741 membership of the Permit Board shall be composed of the Chief of
4742 the Bureau of Environmental Health of the State Board of Health,
4743 or his designee; the Executive Director of the Department of
4744 Wildlife, Fisheries and Parks, or his designee; the Head of the
4745 Office of Land and Water Resources of the Department of
4746 Environmental Quality, or his designee; the Supervisor of the
4747 State Oil and Gas Board, or his designee; the Executive Director
4748 of the Department of Marine Resources, or his designee; the Head
4749 of the Office of Geology and Energy Resources of the Department of
4750 Environmental Quality, or his designee; the Commissioner of
4751 Agriculture and Commerce, or his designee; a retired professional
4752 engineer knowledgeable in the engineering of water wells and water
4753 supply systems, to be appointed by the Governor for a term
4754 concurrent with that of the Governor and until his successor is
4755 appointed and qualified; and a retired water well contractor, to



4756 be appointed by the Governor for a term concurrent with that of
4757 the Governor and until his successor is appointed and qualified.
4758 The retired professional engineer and the retired water well
4759 contractor shall only vote on matters pertaining to the Office of
4760 Land and Water Resources.

4761 (2) Members of the Permit Board who are officers and
4762 employees of the state shall receive no compensation for their
4763 services on the board, but other board members shall receive per
4764 diem compensation as provided in Section 25-3-69. All board
4765 members shall be reimbursed for actual and necessary expenses,
4766 including mileage, incurred in the performance of their official
4767 duties as provided in Section 25-3-41.

4768 (3) In implementing the authority granted under this section
4769 for the Permit Board to act on water quality certifications
4770 required by Section 401 of the federal Clean Water Act, the Permit
4771 Board shall authorize the Executive Director of the Department of
4772 Environmental Quality to make decisions on issuance, reissuance,
4773 denial, modification and revocation of water quality
4774 certifications on projects which the department has received no
4775 written adverse comments. The Permit Board may authorize the
4776 executive director to make decisions on water quality
4777 certifications for other projects. A decision of the executive
4778 director made under this authority shall be a decision of the
4779 Permit Board and shall be subject to a formal hearing and an
4780 appeal as provided in Section 49-17-29.



4781 **SECTION 73.** Section 49-17-29, Mississippi Code of 1972, is
4782 brought forward as follows:

4783 49-17-29. (1) (a) Except as in compliance with paragraph
4784 (b) of this subsection, it is unlawful for any person to cause
4785 pollution of the air in the state or to place or cause to be
4786 placed any wastes or other products or substances in a location
4787 where they are likely to cause pollution of the air. It is also
4788 unlawful to discharge any wastes, products or substances into the
4789 air of the state which exceed standards of performance, hazardous
4790 air pollutant standards, other emission standards set by the
4791 commission, or which reduce the quality of the air below the air
4792 quality standards or increments established by the commission or
4793 prevent attainment or maintenance of those air quality standards.
4794 Any such action is hereby declared to be a public nuisance.

4795 (b) It is unlawful for any person to build, erect,
4796 alter, replace, use or operate any equipment which will cause the
4797 issuance of air contaminants unless that person holds a permit
4798 from the Permit Board (except repairs or maintenance of equipment
4799 for which a permit has been previously issued), or unless that
4800 person is exempted from holding a permit by a regulation
4801 promulgated by the commission. Concentrated animal feeding
4802 operations may be a source or a category of sources exempted under
4803 this paragraph. However, no new or existing applications relating
4804 to swine concentrated animal feeding operations within a county
4805 shall be exempted from regulations and ordinances which have been



4806 duly passed by the county's board of supervisors and which are in
4807 force on June 1, 1998.

4808 (2) (a) Except as in compliance with paragraph (b) of this
4809 subsection, it is unlawful for any person to cause pollution of
4810 any waters of the state or to place or cause to be placed any
4811 wastes in a location where they are likely to cause pollution of
4812 any waters of the state. It is also unlawful to discharge any
4813 wastes into any waters of the state which reduce the quality of
4814 those waters below the water quality standards established by the
4815 commission; or to violate any applicable pretreatment standards or
4816 limitations, technology-based effluent limitations, toxic
4817 standards or any other limitations established by the commission.
4818 Any such action is declared to be a public nuisance.

4819 (b) It is unlawful for any person to carry on any of
4820 the following activities, unless that person holds a current
4821 permit for that activity from the Permit Board as may be required
4822 for the disposal of all wastes which are or may be discharged into
4823 the waters of the state, or unless that person is exempted from
4824 holding a permit by a regulation promulgated by the commission:
4825 (i) the construction, installation, modification or operation of
4826 any disposal system or part thereof or any extension or addition
4827 thereto, including, but not limited to, systems serving
4828 agricultural operations; (ii) the increase in volume or strength
4829 of any wastes in excess of the permissive discharges specified
4830 under any existing permit; (iii) the construction, installation or



4831 operation of any industrial, commercial or other establishment,
4832 including irrigation projects or any extension or modification
4833 thereof or addition thereto, the operation of which would cause an
4834 increase in the discharge of wastes into the waters of the state
4835 or would otherwise alter the physical, chemical or biological
4836 properties of any waters of the state in any manner not already
4837 lawfully authorized; (iv) the construction or use of any new
4838 outlet for the discharge of any wastes into the waters of the
4839 state. However, no new or existing applications relating to swine
4840 concentrated animal feeding operations within a county shall be
4841 exempted from regulations and ordinances which have been duly
4842 passed by the county's board of supervisors and which are in force
4843 on June 1, 1998.

4844 (3) (a) Except as otherwise provided in this section, the
4845 Permit Board created by Section 49-17-28 shall be the exclusive
4846 administrative body to make decisions on permit issuance,
4847 reissuance, denial, modification or revocation of air pollution
4848 control and water pollution control permits and permits required
4849 under the Solid Wastes Disposal Law of 1974 (Title 17, Chapter
4850 17), and all other permits within the jurisdiction of the Permit
4851 Board. After consideration of alternative waste treatment
4852 technologies available to control air and water pollution and
4853 odor, including appropriate siting criteria, the commission may
4854 promulgate regulations establishing conditions, limitations and
4855 exemptions under which the Permit Board shall make these



4856 decisions. Regulations promulgated by the commission which
4857 establish exemptions as authorized under this section shall apply
4858 to any applicable facility in operation on the effective date of
4859 that regulation and to any applicable facility constructed or
4860 operated after the effective date of that regulation. The Permit
4861 Board may issue multiple permits for the same facility or
4862 operation simultaneously or in the sequence that it deems
4863 appropriate consistent with the commission's regulations. Except
4864 as otherwise provided in this paragraph, the Permit Board, under
4865 any conditions that the board may prescribe, may authorize the
4866 Executive Director of the Department of Environmental Quality to
4867 make decisions on permit issuance, reissuance, denial,
4868 modification or revocation. The executive director shall not be
4869 authorized to make decisions on permit issuance, reissuance,
4870 denial, modification or revocation for a commercial hazardous
4871 waste management facility or a solid waste management permit for a
4872 municipal solid waste landfill or incinerator. A decision by the
4873 executive director shall be a decision of the Permit Board and
4874 shall be subject to formal hearing and appeal as provided in this
4875 section. The executive director shall report all permit decisions
4876 to the Permit Board at its next regularly scheduled meeting and
4877 those decisions shall be recorded in the minutes of the Permit
4878 Board. The decisions of the Permit Board shall be recorded in
4879 minutes of the Permit Board and shall be kept separate and apart
4880 from the minutes of the commission. The decision of the Permit



4881 Board or the executive director to issue, reissue, deny, modify or
4882 revoke permits shall not be construed to be an order or other
4883 action of the commission.

4884 (b) The Executive Director of the Department of
4885 Environmental Quality shall also be the Executive Director of the
4886 Permit Board and shall have available to him, as Executive
4887 Director of the Permit Board, all resources and personnel
4888 otherwise available to him as executive director of the
4889 department.

4890 (c) All persons required to obtain an air pollution
4891 control or water pollution control permit, a permit under the
4892 Solid Wastes Disposal Law of 1974 (Title 17, Chapter 17) or any
4893 other permit within the jurisdiction of the Permit Board shall
4894 make application for that permit with the Permit Board. The
4895 Permit Board, under any regulations as the commission may
4896 prescribe, may require the submission of those plans,
4897 specifications and other information as it deems necessary to
4898 carry out Sections 49-17-1 through 49-17-43 and Title 17, Chapter
4899 17, or to carry out the commission's regulations adopted under
4900 those sections. The Permit Board, based upon any information as
4901 it deems relevant, shall issue, reissue, deny, modify or revoke
4902 air pollution control or water pollution control permit or permits
4903 required under the Solid Wastes Disposal Law of 1974 (Title 17,
4904 Chapter 17) or any other permit within the jurisdiction of the
4905 Permit Board under any conditions as it deems necessary that are



4906 consistent with the commission's regulations. The Permit Board's
4907 action of issuance, reissuance, denial, modification or revocation
4908 of a permit as recorded in its minutes shall constitute a complete
4909 decision of the board. All permits issued by the Permit Board
4910 shall remain in full force and effect until the board makes a
4911 final determination regarding any reissuance, modification, or
4912 revocation thereof. The Permit Board shall take action upon an
4913 application within one hundred eighty (180) days following its
4914 receipt in the board's principal office. No action which affects
4915 revocation of an existing permit shall take effect until the
4916 thirty (30) days mentioned in * * * subsection (4) (b) of this
4917 section has expired or until a formal hearing as prescribed in
4918 that paragraph is held, whichever is later.

4919 (d) The Permit Board may adopt rules of practice and
4920 procedure governing its proceedings that are consistent with the
4921 commission's regulations. All hearings in connection with permits
4922 issued, reissued, denied, modified or revoked and all appeals from
4923 decisions of the Permit Board shall be as provided in this
4924 section.

4925 (e) Upon any conditions that are consistent with the
4926 commission's regulations and subject to those procedures for
4927 public notice and hearings as provided by law, not inconsistent
4928 with federal law and regulations, the Permit Board may issue
4929 general permits and, where appropriate, may consolidate multiple
4930 permits for the same facility or operation into a single permit.



4931 (f) The Permit Board shall not issue any permit for a
4932 new swine concentrated animal feeding operation or the expansion
4933 of an existing swine concentrated animal feeding operation before
4934 January 1, 2000, unless the department received the application
4935 for that operation's new or modified permit before February 28,
4936 1998, or except as provided in this paragraph (f). In issuing or
4937 modifying any permit for which the department received an
4938 application before February 28, 1998, the Permit Board shall apply
4939 those siting criteria adopted or used by the commission before
4940 February 28, 1998, unless federal law or regulations require more
4941 stringent criteria. The moratorium established in this paragraph
4942 shall not apply to the issuance of any permit for a new swine
4943 concentrated animal feeding operation or the expansion of an
4944 existing swine concentrated animal feeding operation that uses an
4945 animal waste management system which the applicant demonstrates to
4946 the Permit Board is innovative in significantly reducing the
4947 effects of the operation on the public health, welfare or the
4948 environment and which is approved by the Permit Board. The Permit
4949 Board shall not issue or modify more than five (5) permits under
4950 this innovative animal waste management system technology
4951 exemption to the moratorium.

4952 (g) Each applicant for a permit for a new outlet for
4953 the discharge of wastes into the waters of the state who is
4954 required to obtain a certificate of public convenience and
4955 necessity from the Public Service Commission for such wastewater



4956 system shall submit financial and managerial information as
4957 required by the Public Utilities Staff. Following review of that
4958 information, the Executive Director of the Public Utilities Staff
4959 shall certify in writing to the executive director of the
4960 department, the financial and managerial viability of the system
4961 if the Executive Director of the Public Utilities Staff determines
4962 the system is viable. The Permit Board shall not issue the permit
4963 until the certification is received.

4964 (4) (a) Except as required by this section, before the
4965 issuance, reissuance, denial, modification or revocation of any
4966 air pollution control or water pollution control permit, permit
4967 required under the Solid Wastes Disposal Law of 1974 (Title 17,
4968 Chapter 17) or any other permit within its jurisdiction, the
4969 Permit Board, in its discretion, may hold a public hearing or
4970 meeting to obtain comments from the public on its proposed action.
4971 Before the issuance, reissuance, denial, modification pertaining
4972 to the expansion of a facility, transfer or revocation of a permit
4973 for a commercial hazardous waste management facility or a solid
4974 waste management permit for a commercial municipal solid waste
4975 landfill or incinerator, the Permit Board shall conduct a public
4976 hearing or meeting to obtain comments from the public on the
4977 proposed action. That hearing or meeting shall be informal in
4978 nature and conducted under those procedures as the Permit Board
4979 may deem appropriate consistent with the commission's regulations.



4980 (b) Within thirty (30) days after the date the Permit
4981 Board takes action upon permit issuance, reissuance, denial,
4982 modification or revocation, as recorded in the minutes of the
4983 Permit Board, any interested party aggrieved by that action may
4984 file a written request for a formal hearing before the Permit
4985 Board. An interested party is any person claiming an interest
4986 relating to the property or project which is the subject of the
4987 permit action, and who is so situated that the person may be
4988 affected by the disposition of that action.

4989 The Permit Board shall fix the time and place of the formal
4990 hearing and shall notify the permittee of that time and place.

4991 In conducting the formal hearing, the Permit Board shall have
4992 the same full powers as to subpoenaing witnesses, administering
4993 oaths, examining witnesses under oath and conducting the hearing,
4994 as is now vested by law in the Mississippi Public Service
4995 Commission, as to the hearings before it, with the additional
4996 power that the Executive Director of the Permit Board may issue
4997 all subpoenas at the instance of the Permit Board or at the
4998 instance of any interested party. Any subpoenas shall be served
4999 by any lawful officer in any county to whom the subpoena is
5000 directed and return made thereon as provided by law, with the cost
5001 of service being paid by the party on whose behalf the subpoena
5002 was issued. Witnesses summoned to appear at the hearing shall be
5003 entitled to the same per diem and mileage as witnesses attending
5004 the circuit court and shall be paid by the person on whose behalf



5005 the witness was called. Sufficient sureties for the cost of
5006 service of the subpoena and witness fees shall be filed with the
5007 Executive Director of the Permit Board at the time that issuance
5008 of the subpoena is requested. At a hearing, any interested party
5009 may present witnesses and submit evidence and cross-examine
5010 witnesses.

5011 The Permit Board may designate a hearing officer to conduct
5012 the formal hearing on all or any part of the issues on behalf of
5013 the Permit Board. The hearing officer shall prepare the record of
5014 the formal hearing conducted by that officer for the Permit Board
5015 and shall submit the record to the Permit Board.

5016 Upon conclusion of the formal hearing, the Permit Board shall
5017 enter in its minutes the board's decision affirming, modifying or
5018 reversing its prior decision to issue, reissue, deny, modify or
5019 revoke a permit. The Permit Board shall prepare and record in its
5020 minutes findings of fact and conclusions of law supporting its
5021 decision. That decision, as recorded in its minutes with its
5022 findings of fact and conclusions of law, shall be final unless an
5023 appeal, as provided in this section, is taken to chancery court
5024 within twenty (20) days following the date the decision is entered
5025 in the board's minutes.

5026 (c) Within twenty (20) days after the date the Permit
5027 Board takes action upon permit issuance, reissuance, denial,
5028 modification or revocation after a formal hearing under this
5029 subsection as recorded in the minutes of the Permit Board, any



5030 person aggrieved of that action may appeal the action as provided
5031 in subsection (5) of this section.

5032 (5) (a) Appeals from any decision or action of the Permit
5033 Board shall be only to chancery court as provided in this
5034 subsection.

5035 (b) Any person who is aggrieved by any decision of the
5036 Permit Board issuing, reissuing, denying, revoking or modifying a
5037 permit after a formal hearing may appeal that decision within the
5038 period specified in subsection (4) (c) of this section to the
5039 chancery court of the county of the situs in whole or in part of
5040 the subject matter. The appellant shall give a cost bond with
5041 sufficient sureties, payable to the state in the sum of not less
5042 than One Hundred Dollars (\$100.00) nor more than Five Hundred
5043 Dollars (\$500.00), to be fixed by the Permit Board and to be filed
5044 with and approved by the Executive Director of the Permit Board,
5045 who shall forthwith certify the filing of the bond together with a
5046 certified copy of the record of the Permit Board in the matter to
5047 the chancery court to which the appeal is taken, which shall
5048 thereupon become the record of the cause. An appeal to the
5049 chancery court as provided in this section shall not stay the
5050 decision of the Permit Board. The aggrieved party may, within
5051 twenty (20) days following the date the board's decision after a
5052 formal hearing is entered on the board's minutes, petition the
5053 chancery court for an appeal with supersedeas and the chancellor
5054 shall grant a hearing on that petition. Upon good cause shown,



5055 the chancellor may grant that appeal with supersedeas. If
5056 granted, the appellant shall be required to post a bond with
5057 sufficient sureties according to law in an amount to be determined
5058 by the chancellor. Appeals shall be considered only upon the
5059 record as made before the Permit Board. The chancery court shall
5060 always be deemed open for hearing of an appeal and the chancellor
5061 may hear the same in termtime or in vacation at any place in the
5062 chancellor's district, and the appeal shall have precedence over
5063 all civil cases, except election contests. The chancery court
5064 shall review all questions of law and of fact. If no prejudicial
5065 error is found, the matter shall be affirmed. If prejudicial
5066 error is found the decision of the board shall be reversed and the
5067 chancery court shall remand the matter to the Permit Board for
5068 appropriate action as may be indicated or necessary under the
5069 circumstances. Appeals may be taken from the chancery court to
5070 the Supreme Court in the manner as now required by law, except
5071 that if a supersedeas is desired by the party appealing to the
5072 chancery court, that party may apply for a supersedeas to the
5073 chancellor of that court, who shall award a writ of supersedeas,
5074 without additional bond, if in the chancellor's judgment material
5075 damage is not likely to result thereby; but otherwise, the
5076 chancellor shall require a supersedeas bond as the chancellor
5077 deems proper, which shall be liable to the state for any damage.

5078 **SECTION 74.** Section 49-17-30, Mississippi Code of 1972, is
5079 brought forward as follows:



5080 49-17-30. (1) As a condition of Title V of the federal
5081 Clean Air Act, the owner or operator of any stationary source
5082 required to obtain an air operating permit under the Title V
5083 program, hereinafter referred to as a "Title V permit," shall pay
5084 to the Department of Environmental Quality an annual fee.

5085 (2) To facilitate the proper administration of the Title V
5086 program, the commission is authorized to assess and collect fees
5087 from any stationary source subject to the Title V program. The
5088 commission shall establish the amount of each fee to cover the
5089 costs of the Title V program as provided in Section 49-17-14. The
5090 commission is further authorized to promulgate such rules and
5091 regulations as are necessary for the development and
5092 administration of the Title V program and the assessment and
5093 collection of the Title V program fees.

5094 (3) (a) The fee schedule for Title V program fees shall be
5095 set annually by order of the commission in an amount sufficient to
5096 cover the reasonable costs of development and administration of
5097 the Title V program. The commission's order shall follow:

5098 (i) Receipt of the report and recommendations of
5099 the Advisory Council, if timely received; and

5100 (ii) A public hearing to be held not earlier than
5101 thirty (30) days following receipt by the commission of the report
5102 and recommendations of the Advisory Council.



5103 (b) The commission may proceed with entry of the order
5104 on fees if the Advisory Council fails to submit its report in a
5105 timely manner.

5106 (c) The order of the commission may be appealed in the
5107 manner set forth in Section 49-17-41.

5108 (d) The determination of the fee set by order of the
5109 commission shall not be considered the promulgation of a
5110 regulation by the commission.

5111 (e) The record of the public hearing shall be included
5112 in the record upon which the order is based and shall become a
5113 part of the appellate records for all appeals taken from the order
5114 of the commission establishing or modifying Title V program fees.
5115 Any undisputed amount due from an appellant must be paid according
5116 to the appellant's payment schedule during the pendency of the
5117 appeal.

5118 (4) Any person required to pay the Title V program fee set
5119 forth under this chapter who disagrees with the calculation or
5120 applicability of the person's fee may petition the commission in
5121 writing for a hearing in accordance with Section 49-17-35. Such
5122 hearing shall be in accordance with Section 49-17-33. Any
5123 disputed portion of the fee for which a hearing has been requested
5124 will not incur any penalty or interest from and after the receipt
5125 by the commission of the hearing petition. The decision of the
5126 commission may be appealed in the manner set forth in Section
5127 49-17-41.



5128 (5) All fees collected pursuant to this section shall be
5129 deposited into the "Air Operating Permit Program Fee Trust Fund"
5130 established in Section 49-17-14.

5131 **SECTION 75.** Section 49-17-31, Mississippi Code of 1972, is
5132 brought forward as follows:

5133 49-17-31. (a) Whenever the commission or an employee
5134 thereof has reason to believe that a violation of any provision of
5135 Sections 49-17-1 through 49-17-43 or Sections 17-17-1 through
5136 17-17-47 or a regulation or of any order of the commission or of
5137 any limitation or condition of a valid permit has occurred, the
5138 commission may cause a written complaint to be served upon the
5139 alleged violator or violators. The complaint shall specify the
5140 provisions of said sections or regulation or order or permit
5141 alleged to be violated and the facts alleged to constitute a
5142 violation thereof, and shall require that the alleged violator
5143 appear before the commission at a time and place specified in the
5144 notice and answer the charges complained of. Said time of
5145 appearance before the commission shall be not less than ten (10)
5146 days from the date of the service of the complaint.

5147 (b) The commission shall afford an opportunity for a fair
5148 hearing to the alleged violator or violators at the time and place
5149 specified in the complaint. On the basis of the evidence produced
5150 at the hearing, the commission shall make findings of fact and
5151 conclusions of law and enter such order as in its opinion will
5152 best further the purposes of Sections 49-17-1 through 49-17-43 and



5153 Sections 17-17-1 through 17-17-47, and shall give written notice
5154 of such order to the alleged violator and to such other persons as
5155 shall have appeared at the hearing or made written request for
5156 notice of the order, and the commission may assess such penalties
5157 as hereinafter provided.

5158 (c) Except as otherwise expressly provided, any notice, or
5159 other instrument issued by or under authority of the commission
5160 may be served on any person affected thereby personally or by
5161 publication, and proof of such service may be made in like manner
5162 as in case of service of a summons in a civil action, such proof
5163 to be filed in the office of the commission; or such service may
5164 be made by mailing a copy of the notice, order, or other
5165 instrument by certified mail, directed to the person affected at
5166 his last known post office address as shown by the files or
5167 records of the commission, and proof thereof may be made by the
5168 affidavit of the person who did the mailing, filed in the office
5169 of the commission.

5170 **SECTION 76.** Section 49-17-32, Mississippi Code of 1972, is
5171 brought forward as follows:

5172 49-17-32. (1) The commission may delegate to the Department
5173 of Environmental Quality the responsibility for the collection of
5174 the Title V program fees.

5175 (2) The Title V program fee shall be due September 1 of each
5176 year. Each owner or operator may elect a quarterly payment method
5177 of four (4) equal payments with the payments due September 1,



5178 December 1, March 1 and June 1. The owner or operator shall
5179 notify the Department of Environmental Quality that the quarterly
5180 payment method will be used by September 1.

5181 (3) If any part of the Title V program fee imposed is not
5182 paid within thirty (30) days after the due date, a penalty of ten
5183 percent (10%) of the amount due shall at once accrue and be added
5184 thereto, unless the permittee demonstrates to the commission that
5185 the failure to make timely payment was unavoidable due to
5186 financial hardship or otherwise beyond the permittee's control.
5187 If the fee is not paid in full, including any penalty within sixty
5188 (60) days of the due date, the Environmental Quality Permit Board
5189 may revoke the permit upon proper notice and hearing as required
5190 by law. Any penalty collected under this section shall be
5191 deposited into the "Air Operating Permit Program Fee Trust Fund."

5192 (4) Any owner or operator that fails to properly identify
5193 themselves subject to the Title V program may be subject to fees
5194 and penalties as determined by the commission.

5195 (5) It is the intent of the Legislature that fees collected
5196 pursuant to Sections 49-17-1 through 49-17-45 shall not supplant
5197 or reduce in any way the General Fund appropriation to the
5198 Department of Environmental Quality.

5199 **SECTION 77.** Section 49-17-33, Mississippi Code of 1972, is
5200 brought forward as follows:

5201 49-17-33. The hearings herein provided may be conducted by
5202 the commission itself at a regular or special meeting of the



5203 commission, or the commission may designate a hearing officer, who
5204 may be the executive director, who shall have the power and
5205 authority to conduct such hearings in the name of the commission
5206 at any time and place as conditions and circumstances may warrant.
5207 The hearing officer shall have the record prepared of any hearing
5208 which he has conducted for the commission. Such record shall be
5209 submitted to the commission along with that hearing officer's
5210 findings of fact and recommended decision. Upon receipt and
5211 review of the record of the hearing and the hearing officer's
5212 findings of fact and recommended decision, the commission shall
5213 thereupon render its final decision in the matter. Any person
5214 ordered to appear for an alleged violation shall have the right to
5215 request a hearing before a majority of the commission if he
5216 prefers and such a hearing may then be set for the next regular
5217 meeting of the full commission, or specially. A verbatim record
5218 of the proceedings of such hearings shall be taken and filed with
5219 the commission, together with findings of fact and conclusions of
5220 law made by the commission. Witnesses who are subpoenaed shall
5221 receive the same fees and mileage as in civil actions. In case of
5222 contumacy or refusal to obey a notice of hearing or subpoena
5223 issued under this section, the circuit court shall have
5224 jurisdiction, upon application of the commission or its
5225 representative, to issue an order requiring such person to appear
5226 and testify or produce evidence as the case may require and any
5227 failure to obey such order of the court may be punished by such



5228 court as contempt thereof. Failure to appear at any such hearing,
5229 without prior authorization to do so from the commission or its
5230 designee, may result in the commission finding the alleged
5231 violator guilty of the charges complained of by default, and at
5232 such time an order may be entered, including the assessment of a
5233 penalty, which, in the opinion of the commission, will best
5234 further the purposes of Section 17-17-1 et seq., and Section
5235 49-17-1 et seq.

5236 **SECTION 78.** Section 49-17-34, Mississippi Code of 1972, is
5237 brought forward as follows:

5238 49-17-34. (1) Within fifteen (15) days after receipt by the
5239 Department of Environmental Quality an application for any initial
5240 or modified air or water permit required under the Mississippi Air
5241 and Water Pollution Control Law that is submitted after April 16,
5242 1993, the Department of Environmental Quality shall acknowledge in
5243 writing receipt of such application. Except for good cause shown,
5244 within forty-five (45) days after receipt of a permit application,
5245 the Department of Environmental Quality shall notify the applicant
5246 that the application is complete or of the major components
5247 required to complete the application.

5248 (2) All rules, regulations and standards relating to air
5249 quality, water quality or air emissions or water discharge
5250 standards promulgated by the commission after April 16, 1993,
5251 shall be consistent with and shall not exceed the requirements of
5252 federal statutes and federal regulations, standards, criteria and



5253 guidance relating to air quality, water quality or air emission or
5254 water discharge standards that have been duly promulgated pursuant
5255 to the federal Administrative Procedures Act, including, but not
5256 limited to, the identity and scope of air pollutants included as
5257 air toxics or air quality or emission standards, the identity and
5258 scope of water pollutants included as water quality or discharge
5259 standards and the numerical and narrative limitations of such
5260 standards.

5261 (3) If there are no federal statutes or federal regulations,
5262 standards, criteria or guidance that have been duly promulgated
5263 pursuant to the federal Administrative Procedures Act addressing
5264 matters relating to air quality or water quality, or air emission
5265 or water discharge standards, the commission may promulgate
5266 regulations to address these matters in accordance with the
5267 Mississippi Administrative Procedures Act, when the commission
5268 determines that such regulations are necessary to protect human
5269 health, welfare or the environment.

5270 (4) For any initial or modified air or water permit issued
5271 from and after January 1, 1994, except with the written consent of
5272 the permit applicant, no provision or condition imposing any duty,
5273 responsibility or liability on the permittee shall be included in
5274 such permit, the direct basis for which has not been first
5275 promulgated as a regulation by the commission in accordance with
5276 the requirements of the Mississippi Administrative Procedures Act.
5277 "Direct basis" shall mean that such permit provisions or



5278 conditions shall not exceed the scope, coverage and effect of the
5279 regulation upon which it is based including, but not limited to,
5280 frequency or time limit of action, technology, identity and scope
5281 of pollutants regulated, numerical or narrative standards or
5282 limitations.

5283 **SECTION 79.** Section 49-17-35, Mississippi Code of 1972, is
5284 brought forward as follows:

5285 49-17-35. Any interested person shall have the right to
5286 request the commission to call a hearing for the purpose of taking
5287 action in respect to any matter within the jurisdiction of the
5288 commission by making a request therefor in writing. Upon receipt
5289 of any such request, the commission shall conduct such
5290 investigations as it deems necessary and may call a special
5291 hearing or may schedule such matter for its next regular meeting
5292 or hearing day, and after such hearings and with all convenient
5293 speed and in any event within thirty (30) days after the
5294 conclusion of such hearing shall take such action on the subject
5295 matter thereof as it may deem appropriate.

5296 **SECTION 80.** Section 49-17-36, Mississippi Code of 1972, is
5297 brought forward as follows:

5298 49-17-36. (1) It is unlawful for any person to knowingly:
5299 (a) fail to pay any fee assessed by the commission for
5300 administration of the federal air operating permit program; (b)
5301 fail to satisfy any air operating permit filing requirement; (c)
5302 make any false statement, representation of certification in any



5303 notice or report required by an air operating permit; or (d)
5304 render inaccurate any air monitoring device or method required by
5305 an air operating permit; and, upon conviction thereof, such person
5306 shall be punished by a fine of not less than Two Thousand Five
5307 Hundred Dollars (\$2,500.00) nor more than Twenty-five Thousand
5308 Dollars (\$25,000.00) per day of violation.

5309 (2) In determining the amount of penalty under this section,
5310 the following shall be considered at a minimum:

5311 (a) The willfulness of the violation;

5312 (b) Any damage to air, water, land or other natural
5313 resources of the state or their uses;

5314 (c) Costs of restoration or abatement;

5315 (d) Economic benefit as a result of noncompliance;

5316 (e) The seriousness of the violation, including any
5317 harm to the environment and any hazard to the health, safety and
5318 welfare of the public; and

5319 (f) Past performance history.

5320 (3) All fines collected by the commission under this section
5321 shall be deposited into the Pollution Emergency Fund established
5322 under Section 49-17-68, Mississippi Code of 1972.

5323 **SECTION 81.** Section 49-17-37, Mississippi Code of 1972, is
5324 brought forward as follows:

5325 49-17-37. All hearings before the commission shall be
5326 recorded either by a court reporter or by tape or mechanical
5327 recorders and subject to transcription upon order of the



5328 commission or any interested party, but in the event that the
5329 request for transcription originates with an interested party,
5330 such party shall pay the cost thereof.

5331 **SECTION 82.** Section 49-17-39, Mississippi Code of 1972, is
5332 brought forward as follows:

5333 49-17-39. Information obtained by the commission concerning
5334 environmental protection, including, but not limited to,
5335 information contained in applications for air emission equipment
5336 construction permits and water discharge permits shall be public
5337 information and shall be made available upon proper request.
5338 Other information obtained by the commission, department or permit
5339 board in the administration of Sections 49-17-1 through 49-17-43
5340 concerning trade secrets, including, but not limited to, marketing
5341 or financial information, processes, devices, methods of
5342 manufacture, or production capabilities or amounts shall be kept
5343 confidential, if and only if: (a) a written confidentiality claim
5344 is made when the information is supplied; (b) such confidentiality
5345 claim allows disclosure of the confidential information to
5346 authorized department employees and/or the United States
5347 Environmental Protection Agency (EPA); and (c) such
5348 confidentiality claim is determined by the commission to be valid.
5349 If the confidentiality claim is denied, the information sought to
5350 be covered thereby shall not be released or disclosed, except to
5351 the Environmental Protection Agency, until the claimant has been
5352 notified in writing and afforded an opportunity for a hearing and



5353 appeal therefrom, as with other orders of the commission.
5354 Disclosure of confidential information by the EPA should be
5355 governed by federal law and EPA regulations. Anyone making
5356 unauthorized disclosure of information determined to be
5357 confidential as herein provided shall be liable in a civil action
5358 for damages arising therefrom and shall also be guilty of a
5359 misdemeanor punishable as provided by law.

5360 **SECTION 83.** Section 49-17-41, Mississippi Code of 1972, is
5361 brought forward as follows:

5362 49-17-41. In addition to any other remedies that might now
5363 be available, any person or interested party aggrieved by any
5364 order of the commission or the executive director shall have a
5365 right to file a sworn petition with the commission within thirty
5366 (30) days after the order was issued setting forth the grounds and
5367 reasons for his complaint and asking for a hearing of the matter
5368 involved, provided that no hearing on the same subject matter
5369 shall have been previously held before the commission or its
5370 designated hearing officer. The commission shall thereupon fix
5371 the time and place of such hearing and shall notify the
5372 petitioners thereof. In such pending matters, the commission
5373 shall have the same full powers as to subpoenaing witnesses,
5374 administering oaths, examining witnesses under oath and conducting
5375 the hearing, as is now vested by law in the Mississippi Public
5376 Service Commission, as to hearings before it, with the additional
5377 power that the executive director may issue all subpoenas, both at



5378 the instance of the petitioner and of the commission. At such
5379 hearings the petitioner, and any other interested party, may
5380 offer, present witnesses and submit evidence.

5381 Following such hearing, the final order of determination of
5382 the commission upon such matters shall be conclusive, unless the
5383 petitioner, or such other interested party appearing at the
5384 hearing, shall, within fifteen (15) days after the adjournment of
5385 the meeting at which said final order was made, appeal to the
5386 chancery court of the county where the hearing was held, or of the
5387 situs in whole or in part of the subject matter of the hearing by
5388 giving a cost bond with sufficient sureties, payable to the state
5389 in the sum of not less than One Hundred Dollars (\$100.00) nor more
5390 than Five Hundred Dollars (\$500.00), to be fixed in the order
5391 appealed from, to be filed with and approved by the executive
5392 director of the commission, who shall forthwith certify the same
5393 together with a certified copy of the record of the commission in
5394 the matter to the chancery court to which the appeal is taken,
5395 which shall thereupon become the record of the cause. An appeal
5396 to the chancery court as provided herein shall not stay the
5397 execution of an order of the commission. Any party aggrieved by
5398 an order of the commission may, within said fifteen (15) days
5399 after the adjournment of the commission meeting at which said
5400 final order was entered, petition the chancery court of the situs
5401 in whole or in part of the subject matter for an appeal with
5402 supersedeas, and the chancellor shall grant a hearing on said



5403 petition and upon good cause shown may grant said appeal with
5404 supersedeas; the appellant shall be required to post a bond with
5405 sufficient sureties according to law in an amount to be determined
5406 by the chancellor. Appeals shall be considered only upon the
5407 record as made before the commission. The chancery court shall
5408 always be deemed open for hearing of such appeals and the
5409 chancellor may hear the same in termtime or in vacation at any
5410 place in his district, and the same shall have precedence over all
5411 civil cases, except election contests. The chancery court shall
5412 review all questions of law and of fact. If no prejudicial error
5413 be found, the matter shall be affirmed and remanded to the
5414 commission for enforcement. If prejudicial error be found, the
5415 same shall be reversed and the chancery court shall remand the
5416 matter to the commission for appropriate action as may be
5417 indicated or necessary under the circumstances. Appeals may be
5418 taken from the chancery court to the Supreme Court in the manner
5419 as now required by law, except that if a supersedeas is desired by
5420 the party appealing to the chancery court he may apply therefor to
5421 the chancellor thereof, who shall award a writ of supersedeas,
5422 without additional bond, if in his judgment material damage is not
5423 likely to result thereby, but otherwise he shall require such
5424 supersedeas bond as he deems proper, which shall be liable to the
5425 state for such damage.

5426 **SECTION 84.** Section 49-17-42, Mississippi Code of 1972, is
5427 brought forward as follows:



5428 49-17-42. (1) Any lender or holder who maintains indicia of
5429 ownership primarily to protect an interest in a property,
5430 facility, or other person, and who does not participate in the
5431 management of the property, facility, or other person, shall not
5432 be considered an owner or operator of that property, facility, or
5433 other person, nor liable under any pollution control or other
5434 environmental protection law, or any rule or regulation or written
5435 order of the commission in pursuance thereof, for the prevention,
5436 cleanup, removal, remediation or abatement of any pollution,
5437 hazardous waste or solid waste placed, released or dumped on, in,
5438 about or near the property, facility or other person or caused by
5439 any operator on or of the property, facility or other person.

5440 (2) This section shall apply to actions commenced by the
5441 commission or by third parties.

5442 (3) In implementing this section, the commission shall adopt
5443 regulations equivalent to those proposed by the United States
5444 Environmental Protection Agency for this purpose.

5445 (4) This section shall apply to all interests existing at
5446 the time of passage of this chapter and thereafter created,
5447 whether secured or unsecured.

5448 **SECTION 85.** Section 49-17-43, Mississippi Code of 1972, is
5449 brought forward as follows:

5450 49-17-43. (1) Any person found by the commission violating
5451 any of the provisions of Sections 49-17-1 through 49-17-43, or any
5452 rule or regulation or written order of the commission in pursuance



5453 thereof or any condition or limitation of a permit, except a
5454 permit required under the Solid Wastes Disposal Law of 1974
5455 (Sections 17-17-1 through 17-17-47), shall be subject to a civil
5456 penalty of not more than Twenty-five Thousand Dollars
5457 (\$25,000.00), for each violation, such penalty to be assessed and
5458 levied by the commission after a hearing as provided hereinabove.
5459 Appeals from the imposition of the civil penalty may be taken to
5460 the chancery court in the same manner as appeals from orders of
5461 the commission. If the appellant desires to stay the execution of
5462 a civil penalty assessed by the commission, he shall give bond
5463 with sufficient resident sureties of one or more guaranty or
5464 surety companies authorized to do business in this state, payable
5465 to the State of Mississippi, in an amount equal to double the
5466 amount of any civil penalty assessed by the commission, as to
5467 which the stay of execution is desired, conditioned, if the
5468 judgment shall be affirmed, to pay all costs of the assessment
5469 entered against the appellant. Each day upon which a violation
5470 occurs shall be deemed a separate and additional violation.

5471 Any person violating any provision of the Solid Wastes
5472 Disposal Law of 1974 (Sections 17-17-1 through 17-17-47), any rule
5473 or regulation made pursuant to that law, or any order issued by
5474 the commission under the authority of that law shall be subject to
5475 the penalties provided in Section 17-17-29.

5476 (2) In lieu of, or in addition to, the penalty provided in
5477 subsection (1) of this section, the commission shall have power to



5478 institute and maintain in the name of the state any and all
5479 proceedings necessary or appropriate to enforce the provisions of
5480 Sections 49-17-1 through 49-17-43, rules and regulations in force
5481 pursuant thereto, and orders and permits made and issued under
5482 those sections, in the appropriate circuit, chancery, county or
5483 justice court of the county in which venue may lie. The
5484 commission may obtain mandatory or prohibitory injunctive relief,
5485 either temporary or permanent, and in cases of imminent and
5486 substantial hazard or endangerment as set forth in Section
5487 49-17-27, it shall not be necessary in such cases that the state
5488 plead or prove: (a) that irreparable damage would result if the
5489 injunction did not issue; (b) that there is no adequate remedy at
5490 law; or (c) that a written complaint or commission order has first
5491 been issued for the alleged violation.

5492 (3) Any person who violates any of the provisions of, or
5493 fails to perform any duty imposed by, Sections 49-17-1 through
5494 49-17-43 or any rule or regulation issued hereunder, or who
5495 violates any order or determination of the commission promulgated
5496 pursuant to such sections, and causes the death of fish or other
5497 wildlife shall be liable, in addition to the penalties provided in
5498 subsections (1) and (2) of this section, to pay to the state an
5499 additional amount equal to the sum of money reasonably necessary
5500 to restock such waters or replenish such wildlife as determined by
5501 the commission after consultation with the Mississippi Commission
5502 on Wildlife, Fisheries and Parks. Such amount may be recovered by



5503 the commission on behalf of the state in a civil action brought in
5504 the appropriate county or circuit court of the county in which
5505 venue may lie.

5506 (4) Any person who owns or operates facilities which,
5507 through misadventure, happenstance or otherwise, cause pollution
5508 necessitating immediate remedial or cleanup action shall be liable
5509 for the cost of such remedial or cleanup action and the commission
5510 may recover the cost of same by a civil action brought in the
5511 circuit court of the county in which venue may lie. This penalty
5512 may be recovered in lieu of or in addition to the penalties
5513 provided in subsections (1), (2) and (3) of this section.

5514 In the event of the necessity for immediate remedial or
5515 cleanup action, the commission may contract for same and advance
5516 funds from the Pollution Emergency Fund to pay the costs thereof,
5517 such advancements to be repaid to the Pollution Emergency Fund
5518 upon recovery by the commission as provided above.

5519 (5) It is unlawful for any person to: (a) discharge
5520 pollutants in violation of Section 49-17-29 or in violation of any
5521 condition or limitation included in a permit issued under Section
5522 49-17-29 or (b) introduce pollutants into publicly owned treatment
5523 works in violation of pretreatment standards or in violation of
5524 toxic effluent standards; and, upon conviction thereof, such
5525 person shall be punished by a fine of not less than Two Thousand
5526 Five Hundred Dollars (\$2,500.00) nor more than Twenty-five
5527 Thousand Dollars (\$25,000.00) per day of violation.



5528 (6) All fines, penalties and other sums recovered or
5529 collected by the commission for and in behalf of the state under
5530 this section shall be deposited in the Pollution Emergency Fund
5531 established under this chapter, and the commission is authorized
5532 to receive and accept, from any funds and all available sources
5533 whatsoever, additional funds to be deposited in such fund and
5534 expended for the purpose of remedial, cleanup or abatement actions
5535 involving pollution of the land, air or waters of the state in
5536 violation of Sections 49-17-1 through 49-17-43, any rule or
5537 regulation or written order of the commission in pursuance
5538 thereof, or any condition or limitation of a permit.

5539 (7) In determining the amount of any penalty under this
5540 chapter, the commission shall consider at a minimum:

- 5541 (a) The willfulness of the violation;
- 5542 (b) Any damage to air, water, land or other natural
5543 resources of the state or their uses;
- 5544 (c) Costs of restoration and abatement;
- 5545 (d) Economic benefit as a result of noncompliance;
- 5546 (e) The seriousness of the violation, including any
5547 harm to the environment and any hazard to the health, safety and
5548 welfare of the public;
- 5549 (f) Past performance history; and
- 5550 (g) Whether the noncompliance was discovered and
5551 reported as the result of a voluntary self-evaluation. If a
5552 person discovers as a result of a voluntary self-evaluation,



5553 information related to noncompliance with an environmental law and
5554 voluntarily discloses that information to the department,
5555 commission or any employee thereof, the commission shall, to the
5556 greatest extent possible, reduce a penalty, if any, determined by
5557 the commission, except for economic benefit as a result of
5558 noncompliance, to a de minimis amount if all of the following are
5559 true:

5560 (i) The disclosure is made promptly after
5561 knowledge of the information disclosed is obtained by the person;

5562 (ii) The person making the disclosure initiates
5563 the appropriate corrective actions and pursues those corrective
5564 actions with due diligence;

5565 (iii) The person making the disclosure cooperates
5566 with the commission and the department regarding investigation of
5567 the issues identified in the disclosure;

5568 (iv) The person is not otherwise required by an
5569 environmental law to make the disclosure to the commission or the
5570 department;

5571 (v) The information was not obtained through any
5572 source independent of the voluntary self-evaluation or by the
5573 department through observation, sampling or monitoring;

5574 (vi) The noncompliance did not result in a substantial
5575 endangerment threatening the public health, safety or welfare or
5576 the environment; and



5577 (vii) The noncompliance is not a repeat violation
5578 occurring at the same facility within a period of three (3) years.
5579 "Repeat violation" in this subparagraph means a second or
5580 subsequent violation, after the first violation has ceased, of the
5581 same statutory provision, regulation, permit condition, or
5582 condition in an order of the commission.

5583 (8) Any provisions of this section and chapter regarding
5584 liability for the costs of cleanup, removal, remediation or
5585 abatement of any pollution, hazardous waste or solid waste shall
5586 be limited as provided in Section 49-17-42 and rules adopted
5587 thereto.

5588 **SECTION 86.** Section 49-17-44, Mississippi Code of 1972, is
5589 brought forward as follows:

5590 49-17-44. (1) The Permit Board may require any applicant
5591 for a water pollution control permit for the discharge of effluent
5592 from any sewer system certificated or required to be certificated
5593 by the Public Service Commission to provide a bond or other
5594 acceptable financial security instrument payable to the Commission
5595 on Environmental Quality and conditioned upon full and
5596 satisfactory performance of the requirements of the Mississippi
5597 Air and Water Pollution Control Law and any water pollution
5598 control permit issued under that law. Any bond shall be executed
5599 by the permittee and a corporate surety licensed to do business in
5600 the state. The commission shall establish by regulation the
5601 acceptable forms of financial security and the amount of financial



5602 security required for the various types and sizes of facilities.
5603 The purpose of the bond or other financial security shall be the
5604 protection of the public health, welfare and the environment.

5605 (2) The commission may enter an order requiring forfeiture
5606 of the bond or other financial security, if the commission
5607 determines that:

5608 (a) The continued operation or lack of operation and
5609 maintenance of the facility covered by this section represents an
5610 imminent threat to the public health, welfare and the environment
5611 because the permittee is unable or unwilling to adequately operate
5612 and maintain the facility or the facility has been actually or
5613 effectively abandoned by the permittee;

5614 (b) Reasonable and practical efforts under the
5615 circumstances have been made to obtain corrective actions from the
5616 permittee; and

5617 (c) It does not appear that corrective actions can or
5618 will be taken within an appropriate time as determined by the
5619 commission.

5620 (3) (a) The proceeds of any forfeiture shall be deposited
5621 into a special fund created in subsection (5) of this section and
5622 shall be used by the commission or any receiver appointed by the
5623 Chancery Court of the First Judicial District of Hinds County to
5624 address or correct the noncompliance at the facility or to
5625 continue operation and maintenance of the facility. The proceeds
5626 shall be in addition to any other funds otherwise appropriated to



5627 the department and may be expended under the authority of this
5628 section without additional action of the Legislature.

5629 (b) The commission shall file an annual report
5630 detailing the receipts and expenditure of the bond forfeiture fund
5631 with the Chairmen of the House and Senate Appropriation
5632 Committees.

5633 (4) If the commission finds that a facility has been
5634 abandoned or that services of a facility have been terminated, the
5635 commission may enter any orders regarding continued operations of
5636 that facility as it deems necessary to protect the public health,
5637 welfare and the environment.

5638 (5) (a) There is created in the State Treasury a fund to be
5639 designated as the "Water Pollution Control Bond Forfeiture Fund."
5640 Monies in the fund shall be used by the commission or any receiver
5641 appointed by the court to address or correct the noncompliance at
5642 the facility or to continue operation and maintenance of the
5643 facility for which the bond or other financial security was
5644 forfeited.

5645 (b) Expenditures may be made from the fund upon
5646 requisition by the executive director of the department.

5647 (c) The fund shall be treated as a special trust fund.
5648 Interest earned on the principal shall be credited by the
5649 Treasurer to the fund.

5650 (d) The fund may receive monies from any available
5651 public or private source, including, but not limited to, proceeds



5652 from bond or other financial security forfeitures, interest, and
5653 funds from other judicial actions.

5654 (6) An appeal from any decision of the commission under this
5655 section may be taken as provided in Section 49-17-41, Mississippi
5656 Code of 1972.

5657 (7) This section shall be applicable to new applications for
5658 water pollution control permits and to existing water pollution
5659 control permits upon application for reissuance or transfer of a
5660 permit.

5661 **SECTION 87.** Section 49-17-44.1, Mississippi Code of 1972, is
5662 brought forward as follows:

5663 49-17-44.1. If the commission determines that any privately
5664 owned sewer system that is certificated by the Public Service
5665 Commission and within its jurisdiction has been actually or
5666 effectively abandoned by its owner, or that its management is
5667 grossly inefficient or irresponsible, and the abandonment or
5668 management has created an environmental problem that endangers
5669 public health, the commission may petition the chancery court of
5670 any county wherein the privately owned sewer system is located for
5671 an order attaching the assets of the privately owned sewer system
5672 and placing such sewer system under the sole control and
5673 responsibility of a receiver. Any person served by the sewer
5674 system shall have standing to intervene in the chancery proceeding
5675 as an interested party. If the court determines that the petition
5676 is proper in all respects and finds, after a hearing thereon, the



5677 allegations contained in the petition are true, it shall order
5678 that the sewer system be placed in receivership. The court, in
5679 its discretion and in consideration of the recommendation of the
5680 commission, may appoint a receiver who shall be a responsible
5681 individual, partnership, corporation or political subdivision
5682 knowledgeable in sewer service affairs and who shall maintain
5683 control and responsibility for the operation and management of the
5684 affairs of such sewer system. The receiver shall operate the
5685 sewer system so as to preserve the assets of the sewer system and
5686 to serve the best interests of its customers while protecting
5687 public health and welfare and the environment. The receiver shall
5688 be compensated from the assets of the sewer system in an amount to
5689 be determined by the court. Control of and responsibility for the
5690 sewer system shall remain in the receiver until the court
5691 determines that it is in the best interests of the customers and
5692 the public interest that the sewer system be returned to the
5693 owner, transferred to another owner, or assumed by another sewer
5694 system or public service corporation. If the court, after
5695 hearing, determines that control of and responsibility for the
5696 affairs of the sewer system should not be returned to the legal
5697 owner thereof, the receiver may proceed to liquidate the assets of
5698 the sewer system in the manner provided by law. Mississippi laws
5699 and Mississippi Rules of Civil Procedure generally applicable to
5700 receivership shall govern receiverships created under this
5701 section. Any new owner or operator of a sewer system transferred



5702 or liquidated by the receiver or the chancery court under this
5703 subsection shall obtain all necessary permits and approvals from
5704 the Permit Board, the Public Service Commission and any other
5705 applicable state or local agencies.

5706 **SECTION 88.** Section 49-17-45, Mississippi Code of 1972, is
5707 brought forward as follows:

5708 49-17-45. (1) The Mississippi Commission on Environmental
5709 Quality, acting through the Department of Environmental Quality,
5710 shall establish and administer, in accordance with the federal
5711 Clean Air Act, the Mississippi Small Business Stationary Source
5712 Technical and Environmental Compliance Assistance Program
5713 (PROGRAM).

5714 (2) There is created the Mississippi Small Business
5715 Compliance Advisory Panel. The Mississippi Small Business
5716 Compliance Advisory Panel shall consist of the following members,
5717 the term of each to be concurrent with the term of the appointing
5718 official of that member:

5719 (a) One (1) member representing the Air Pollution
5720 Control Program of the Department of Environmental Quality;

5721 (b) Two (2) members who are not owners or
5722 representatives of owners of a small business, appointed by the
5723 Governor;

5724 (c) Two (2) members who each shall be the owner or
5725 representatives of an owner of a small business, appointed by the
5726 Speaker of the House of Representatives; and



5727 (d) Two (2) members who each shall be the owner or
5728 representatives of an owner of a small business, appointed by the
5729 Lieutenant Governor.

5730 (3) The panel shall elect one (1) member to serve as
5731 chairman. The panel shall meet at the call of the chairman at
5732 Jackson, Mississippi, or such other places within the state
5733 designated by the panel; however, the panel shall not meet more
5734 than four (4) times during a calendar year.

5735 (4) Members of the Mississippi Small Business Compliance
5736 Advisory Panel shall serve without salary, but each shall be
5737 entitled to receive per diem as provided in Section 25-3-69 and
5738 his actual travel and hotel expenses incurred while in the
5739 performance of his duties as a member of the committee in
5740 accordance with Section 25-3-41. Per diem and expenses shall be
5741 paid on an itemized statement approved by the State Fiscal Officer
5742 from fees collected under Section 49-17-30.

5743 (5) The Mississippi Small Business Compliance Advisory Panel
5744 shall:

5745 (a) Render advisory opinions concerning:

5746 (i) The effectiveness of the Small Business
5747 Stationary Source Technical and Environmental Compliance
5748 Assistance Program;

5749 (ii) Difficulties encountered; and

5750 (iii) Degree and severity of enforcement;



5751 (b) Make periodic reports to the Administrator of the
5752 United States Environmental Protection Agency concerning the
5753 compliance of the State Small Business Stationary Source Technical
5754 and Environmental Compliance Assistance Program with the
5755 requirements of the federal Paperwork Reduction Act, the federal
5756 Regulatory Flexibility Act, and the federal Equal Access to
5757 Justice Act;

5758 (c) Review information for small business stationary
5759 sources to assure such information is understandable by the
5760 layperson; and

5761 (d) Have the Small Business Stationary Source Technical
5762 and Environmental Compliance Assistance Program serve as the
5763 secretariat for the development and dissemination of such reports
5764 and advisory opinions.

5765 **SECTION 89.** Section 49-17-61, Mississippi Code of 1972, is
5766 brought forward as follows:

5767 49-17-61. There is hereby created for the State of
5768 Mississippi a Water Pollution Abatement Loan Program ("program")
5769 from which shall be made loans in aid of construction. Funds
5770 shall be available to any political subdivision legally authorized
5771 to own, maintain and operate a sewage, industrial waste or other
5772 waste collection, transport, treatment and disposal system. No
5773 recipient shall receive from state funds any loan in excess of
5774 twenty-five percent (25%) of the cost of construction of a



5775 project, unless said recipient shall become eligible on or after
5776 October 1, 1988, as set forth in Section 49-17-85(3).

5777 Such cost of construction includes: preliminary planning to
5778 determine the economic and engineering feasibility of treatment
5779 works, the engineering, architectural, legal, fiscal and economic
5780 investigations and studies, surveys, designs, plans, working
5781 drawings, specifications, procedures, and other action necessary
5782 to the construction of treatment works; and the erection,
5783 building, acquisition, alteration, remodeling, improvement or
5784 extension of treatment works; and the inspection and supervision
5785 of the construction of treatment works.

5786 No loan shall be made for any project under the provisions of
5787 Sections 49-17-61 through 49-17-67 unless such project is in
5788 conformity with the State Water Pollution Control Plan and has
5789 been certified by the Mississippi Commission on * * *
5790 Environmental Quality as entitled to priority over eligible
5791 projects on the basis of financial as well as water pollution
5792 control needs.

5793 Loan funds generated by the issuance of bonds, legislative
5794 appropriations or otherwise, shall be deposited in an appropriate
5795 account or accounts created under the program.

5796 There is hereby established a special fund designated as the
5797 Water Pollution Abatement Bond Fund ("bond fund"), which fund
5798 shall be maintained as a separate account in the State Treasury.
5799 All bonds which shall be issued by the State of Mississippi to



5800 generate funds to be used for loans under this section shall be
5801 payable as to principal, interest, premiums, if any, and service
5802 fees from the funds deposited in the bond fund. The bond fund
5803 hereby established shall be identical to and be a continuation of
5804 the Water Pollution Abatement Bond Fund authorized and established
5805 by the provisions of Chapter 471, General Laws of the State of
5806 Mississippi, 1971.

5807 No funds heretofore deposited under any other laws to the
5808 credit of a special fund heretofore maintained in the State
5809 Treasury, and heretofore designated under such laws as the Water
5810 Pollution Abatement Bond Fund, shall be removed or transferred
5811 from such Water Pollution Abatement Bond Fund so maintained and
5812 designated under any other laws, except as shall be specifically
5813 authorized by law. When such removal or transfer shall be
5814 authorized, funds removed or transferred shall be deposited to the
5815 credit of a special fund hereby established and designated as the
5816 Water Pollution Abatement Loan Fund ("loan fund"), which fund
5817 shall be maintained as a separate account in the State Treasury.

5818 Funds on deposit in the loan fund (a) may be used to make
5819 loans in aid of construction for water pollution abatement upon
5820 appropriation by the Legislature; (b) in the discretion of the
5821 commission, may be transferred to the Water Pollution Control
5822 Revolving Fund for the purpose of matching federal capitalization
5823 grants and for allowable uses; and (c) may be used for



5824 administration of the State Revolving Loan Program subject to
5825 legislative appropriation.

5826 **SECTION 90.** Section 49-17-63, Mississippi Code of 1972, is
5827 brought forward as follows:

5828 49-17-63. Loans in aid of construction in amounts of Five
5829 Hundred Thousand Dollars (\$500,000.00) or less made from state
5830 funds shall be made to the political subdivision eligible to
5831 receive such loan immediately upon approval of the award by the
5832 appropriate federal agency or agencies of a contract, or
5833 contracts, for construction.

5834 The remainder of any such loan in aid of construction from
5835 state funds shall be made in installments in accord with rules and
5836 regulations adopted by the Bureau of Pollution Control of the
5837 Department of Natural Resources as authorized by subsection (h) of
5838 Section 49-17-17, Mississippi Code of 1972.

5839 All such loans in aid of construction shall be made subject
5840 to the availability of funds.

5841 **SECTION 91.** Section 49-17-65, Mississippi Code of 1972, is
5842 brought forward as follows:

5843 49-17-65. (1) Any political subdivision desiring to
5844 construct a waste disposal plant approved by the Office of
5845 Pollution Control of the Department of Environmental Quality, and
5846 which receives a loan from the state for that purpose, shall
5847 pledge for the repayment of such loan that part of the sales tax
5848 reimbursement to which it is entitled under Section 27-65-75 as



5849 may be required to meet a repayment schedule adopted by the State
5850 Tax Commission. The repayment schedule shall provide for monthly
5851 payments, the largest of which shall not exceed the average
5852 monthly payment for the term of years of the contract by more than
5853 fifteen percent (15%). The repayment schedule shall provide for
5854 the repayment of all funds received within not more than twenty
5855 (20) years from the date said loan is actually received by the
5856 political subdivision; however, the repayment schedule and the
5857 time for repayment of all funds received on loans renegotiated
5858 under subsection (6) of this section shall be modified by the
5859 State Tax Commission to conform with the terms of the renegotiated
5860 loan. The State Tax Commission shall withhold monthly from the
5861 amount to be remitted to a political subdivision, a sum equal to
5862 the next monthly payment.

5863 (2) When bonds shall have been issued by the State of
5864 Mississippi to generate funds to be used for loans to be made
5865 under the provisions of Section 49-17-61, all payments made in
5866 repayment under this section shall be deposited into the Water
5867 Pollution Abatement Bond Fund established under the provisions of
5868 Section 49-17-61 so long as any such bonds shall be outstanding
5869 and unpaid.

5870 (3) When all the bonds shall have been paid, such payments
5871 shall be deposited in the Water Pollution Abatement Loan Fund
5872 ("loan fund") established under the provisions of Section
5873 49-17-61.



5874 (4) When no such bonds shall be outstanding and unpaid, the
5875 payments shall be deposited in the loan fund.

5876 (5) Funds on deposit in the loan fund may be used to make
5877 loans in aid of construction for water pollution abatement upon
5878 appropriation by the Legislature.

5879 (6) The Department of Environmental Quality may, on a
5880 case-by-case basis, renegotiate the payment of principal on loans
5881 made under Sections 49-17-61 through 49-17-70 to political
5882 subdivisions located in the six (6) most southern counties of the
5883 state covered by the Presidential Declaration of Major Disaster
5884 for the State of Mississippi (FEMA-1604-DR) dated August 29, 2005;
5885 however, the maturity of the loans shall not be extended for a
5886 period of more than forty-eight (48) months.

5887 **SECTION 92.** Section 49-17-67, Mississippi Code of 1972, is
5888 brought forward as follows:

5889 49-17-67. Before any political subdivision shall receive
5890 any loan it shall have executed with the * * * Department of
5891 Revenue a repayment agreement, a copy of which must also be filed
5892 with the * * * Office of Pollution Control of the Department
5893 of * * * Environmental Quality, after which the * * * office shall
5894 enter upon its minutes a certificate certifying that the waste
5895 disposal plant has been approved, a copy of which certificate must
5896 be delivered to and filed with the * * * Department of Revenue.
5897 The repayment schedule hereinabove provided for shall not be



5898 construed to prohibit any recipient from prepaying any part or all
5899 of the funds received.

5900 **SECTION 93.** Section 49-17-68, Mississippi Code of 1972, is
5901 brought forward as follows:

5902 49-17-68. The Pollution Emergency Fund is hereby created in
5903 the State Treasury. All fines, penalties or other money recovered
5904 or collected by the commission under Sections 17-17-29 and
5905 49-17-43 shall be deposited into appropriate accounts in such
5906 fund. The commission is further authorized to receive and accept
5907 additional funds from any other source to be deposited into the
5908 Pollution Emergency Fund. The commission is authorized to utilize
5909 any funds in the Pollution Emergency Fund for the purpose of
5910 mitigation, abatement, clean-up or other remedial actions and
5911 related technical investigations involving the introduction of
5912 pollutants, including hazardous wastes, upon or into the land, air
5913 or waters of this state and may be used for the purpose of
5914 providing the required state matching funds to assist the United
5915 States Environmental Protection Agency in furtherance of its
5916 remedial clean-up program. When the acceptance of such funds by
5917 the commission is conditioned on the return of those funds to the
5918 grantor after use and recovery, such funds shall be returned to
5919 the grantor.

5920 **SECTION 94.** Section 49-17-69, Mississippi Code of 1972, is
5921 brought forward as follows:



5922 49-17-69. (1) Any political subdivision desiring to
5923 construct a waste disposal plant approved by the Office of
5924 Pollution Control of the Department of Environmental Quality and
5925 which receives a loan from the state for that purpose but which is
5926 not eligible to pledge for repayment under the provisions of
5927 Sections 49-17-65 and 49-17-67, shall repay the loan by making
5928 payments each month to the State Treasurer through the Department
5929 of Environmental Quality according to the provisions of Section
5930 7-7-15, to be credited to the appropriate fund in lieu of pledging
5931 sales tax reimbursements.

5932 (2) The repayment shall be according to a schedule prepared
5933 by the State Tax Commission in the same manner as such schedules
5934 are prepared for the state's other political subdivisions. The
5935 repayment schedule shall provide for monthly payments, the largest
5936 of which shall not exceed the average monthly payment for the term
5937 of years of the contract by more than fifteen percent (15%). The
5938 repayment schedule shall provide for the repayment of all funds
5939 received within no more than twenty (20) years from the date the
5940 loan is actually received by the political subdivision; however,
5941 the repayment schedule and the time for repayment of all funds
5942 received on loans renegotiated under Section 49-17-61(6) shall be
5943 modified by the State Tax Commission to conform with the terms of
5944 the renegotiated loan. The political subdivision shall remit its
5945 monthly payment by the twentieth of the month to the Department of
5946 Environmental Quality and the payments shall be made prior to the



5947 payments of principal or interest on any bonds issued by the
5948 political subdivision in connection with the project or projects
5949 to which the pollution abatement loans are made.

5950 (3) The State Auditor shall annually audit the receipts and
5951 expenditures of each district whose monthly payments are to be
5952 received by him, and if he should find such political subdivision
5953 in arrears for two (2) consecutive years, he shall immediately
5954 begin withholding from funds due the taxing district in which the
5955 political subdivision is located, under the provisions of Section
5956 27-33-41(g) and (h), an amount equal to twelve (12) times the
5957 largest monthly payment due and issue his warrant for such amount
5958 to either one (1) of the two (2) special funds as directed below.

5959 (4) The repayment schedule provided for in this section
5960 shall not be construed to prohibit any recipient from prepaying
5961 any part or all of the funds received.

5962 (5) When bonds shall have been issued by the State of
5963 Mississippi to generate funds to be used for loans to be made
5964 under the provisions of Section 49-17-61, all payments made in
5965 repayment under this section shall be deposited into the Water
5966 Pollution Abatement Bond Fund established under the provisions of
5967 Section 49-17-61 so long as any such bonds shall be outstanding
5968 and unpaid.

5969 (6) When all such bonds shall have been paid, the payments
5970 shall be deposited in the Water Pollution Abatement Loan Fund



5971 ("loan fund") established under the provisions of Section
5972 49-17-61.

5973 (7) When no such bonds shall be outstanding and unpaid, the
5974 payments shall be deposited in the loan fund.

5975 (8) Funds on deposit in the loan fund may be used to make
5976 loans in aid of construction for water pollution abatement upon
5977 appropriation by the Legislature.

5978 **SECTION 95.** Section 49-17-70, Mississippi Code of 1972, is
5979 brought forward as follows:

5980 49-17-70. Before any political subdivision shall receive any
5981 loan, it shall have executed with the * * * Department of Revenue
5982 a repayment agreement, a copy of which must also be filed with
5983 the * * * Office of Pollution Control of the Department of * * *
5984 Environmental Quality, after which the * * * office shall enter
5985 upon its minutes a certificate certifying that the waste disposal
5986 plant has been approved; a copy of which certificate shall be
5987 delivered to and filed with the * * * Department of Revenue.

5988 **SECTION 96.** Section 49-17-71, Mississippi Code of 1972, is
5989 brought forward as follows:

5990 49-17-71. The Governor, on behalf of this state, is hereby
5991 authorized to execute a compact, in substantially the following
5992 form, with any one or more of the States of Alabama, Georgia,
5993 Kentucky, North Carolina, Tennessee and Virginia, and the
5994 Legislature hereby signifies in advance its approval and
5995 ratification of such compact:



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Article I

The purpose of this compact is to promote effective control and reduction of pollution in the waters of the Tennessee River Basin through increased co-operation of the states of the basin, co-ordination of pollution control activities and programs in the basin, and the establishment of a joint interstate commission to assist in these efforts.

Article II

The party states hereby create the "Tennessee River Basin Water Pollution Control Commission," hereinafter referred to as the "commission," which shall be an agency of each party state with the powers and duties set forth herein, and such others as shall be conferred upon it by the party states or by the Congress of the United States concurred in by the party states.

Article III

A. The party states hereby create the "Tennessee River Basin Water Pollution Control District," hereinafter called the "district," which consists of the area drained by the Tennessee River and its tributaries.

B. From time to time the commission may conduct surveys of the basin, study the pollution problems of the basin, and make comprehensive reports concerning the prevention or reduction of water pollution therein. The commission may draft and recommend to the parties hereto suggested legislation dealing with the pollution of waters within the basin or any portion thereof. Upon



6021 request of a state water pollution control agency, and in a manner
6022 agreed upon by such agency and the commission, the commission
6023 shall render advice concerning the various governments,
6024 communities, municipalities, persons, corporations or other
6025 entities with regard to particular problems connected with the
6026 pollution of waters. The commission shall present to the
6027 appropriate officials of any government or agency thereof its
6028 recommendations relating to enactments to be made by any
6029 legislature in furthering the intents and purposes of this
6030 article. The commission, upon request of a member state or upon
6031 its own instance may, after proper study, and after conducting
6032 public hearings, recommend minimum standards of water quality to
6033 be followed in the several areas of the district.

6034 Article IV

6035 The commission shall consist of three (3) commissioners from
6036 each state, each of whom shall be a resident voter of such state.
6037 The commissioners shall be chosen in the manner and for the terms
6038 provided by the laws of the state from which they are appointed,
6039 and each commissioner may be removed or suspended from office as
6040 provided by the law of the state from which he is appointed.

6041 Article V

6042 A. The commission shall elect annually from its members
6043 a chairman and a vice-chairman to serve at its pleasure. It shall
6044 adopt a seal and suitable by-laws for its management and control.
6045 The commission is hereby authorized to adopt, prescribe and



6046 promulgate rules and regulations for administering and enforcing
6047 all provisions of this compact. It may maintain one or more
6048 offices for the transaction of its business. Meetings shall be
6049 held at least once each year. It may determine duties,
6050 qualifications and compensation for and appoint such employees and
6051 consultants as may be necessary and remove or replace them.

6052 B. The commission shall not compensate the
6053 commissioners for their services but shall pay their actual
6054 expenses incurred in and incidental to the performance of their
6055 duties.

6056 C. The commission may acquire, by gift or otherwise,
6057 and may hold and dispose of such real and personal property as may
6058 be appropriate to the performance of its functions. In the event
6059 of sale of real property, proceeds may be distributed among the
6060 several party states, each state's share being computed in a ratio
6061 to its contributions; and in the event of dissolution of the
6062 commission, the property and assets shall be disposed of and
6063 proceeds distributed in a like manner.

6064 D. Each commissioner shall have one vote. One or more
6065 commissioners from a majority of the party states shall constitute
6066 a quorum for the transaction of business, but no action of the
6067 commission imposing any obligation on any party state or any
6068 municipality, person, corporation or other entity therein shall be
6069 binding unless a majority of all of the members from such party
6070 state shall have voted in favor thereof. The commission shall



6071 keep accurate accounts of all receipts and disbursements, and
6072 shall submit to the governor and the legislature of each party
6073 state an annual report concerning its activities, and shall make
6074 recommendations for any legislative, executive or administrative
6075 action deemed advisable.

6076 E. The commission shall at the proper time submit to
6077 the governor of each party state for his approval an estimate of
6078 its proposed expenditures. The commission shall subsequently
6079 adopt a budget and submit appropriation requests to the party
6080 states in accordance with the laws and procedures of such states.

6081 F. The commission shall not pledge the credit of any of
6082 the party states. The commission may meet any of its obligations
6083 in whole or in part with funds available to it, from gifts,
6084 grants, appropriations or otherwise, provided that the commission
6085 takes specific action setting aside such funds prior to the
6086 incurring of any obligation to be met in whole or in part in this
6087 manner. Except where the commission makes use of funds already
6088 available to it, the commission shall not incur any obligations
6089 prior to the making of appropriations adequate to meet the same.

6090 G. The accounts of the commission shall be open at any
6091 reasonable time to the inspection of such representatives of the
6092 respective party states as may be duly constituted for that
6093 purpose. All receipts and disbursements of funds handled by the
6094 commission shall be audited yearly by a qualified public
6095 accountant, and the report of the audit shall be included in and



6096 become a part of the annual report of the commission. The
6097 commission shall appoint an executive director. The commission
6098 shall also appoint a treasurer who may be a member of the
6099 commission. The executive director shall be custodian of the
6100 records of the commission with authority to attest to and certify
6101 such records and copies thereof under the seal of the commission.
6102 The commission shall require bonds of its executive director and
6103 treasurer in the amount of at least twenty-five per cent (25%) of
6104 the annual budget of the commission.

6105 Article VI

6106 Each of the commission's budgets of estimated expenditures
6107 shall contain specific recommendations of the amount or amounts to
6108 be appropriated by each of the party states. In determining these
6109 amounts, the commission shall prorate one half (1/2) of its budget
6110 among the several states in proportion to their land area within
6111 the district, and shall prorate the other half among the several
6112 states in proportion to their population within the district at
6113 the last preceding federal census.

6114 Article VII

6115 A. It is recognized, owing to such variable factors as
6116 location, size, character and flow and the many varied uses of the
6117 waters subject to the terms of this compact, that no single
6118 standard of sewage and waste treatment and no single standard of
6119 quality of receiving waters is practical and that the degree of
6120 treatment of sewage and industrial wastes should take into account



6121 the classification of the receiving waters according to present
6122 and proposed highest use, such as for drinking water supply,
6123 industrial and agricultural uses, bathing and other recreational
6124 purposes, maintenance and propagation of fish life, navigation and
6125 disposal of wastes.

6126 B. The commission may establish reasonable physical,
6127 chemical and bacteriological standards of water quality
6128 satisfactory for various classifications of use. It is agreed
6129 that each of the signatory states through appropriate agencies
6130 will prepare a classification of its interstate waters in the
6131 district in entirety or by portions according to present and
6132 proposed highest use, and for this purpose technical experts
6133 employed by appropriate state water pollution control agencies are
6134 authorized to confer on questions relating to classification of
6135 interstate waters affecting two or more states. Each signatory
6136 state agrees to submit its classification of its interstate waters
6137 to the commission for approval. It is agreed that after such
6138 approval, all signatory states through their appropriate state
6139 water pollution control agencies will work to establish programs
6140 of treatment of sewage and industrial wastes which will meet
6141 standards established by the commission for classified waters.
6142 The commission may from time to time make such changes in
6143 definitions of classifications and in standards as may be required
6144 by changed conditions or as may be necessary for uniformity and in



6145 a manner similar to that in which these standards and
6146 classifications were originally established.

6147 Article VIII

6148 A. A state pollution control agency of any party state
6149 may certify to the commission an alleged violation of the
6150 commission's standards of quality of water entering said state.
6151 Upon such certification the commission may call a hearing at which
6152 the appropriate state pollution agencies shall be represented. If
6153 the commission finds a violation has occurred, is occurring or is
6154 likely to recur, it shall make recommendations as to the manner of
6155 abatement of the pollution to the appropriate water pollution
6156 control agency of the party state within which the violation has
6157 occurred, is occurring or is likely to recur. In the event that
6158 commission recommendations made pursuant to the preceding
6159 provisions of this article do not result in compliance within a
6160 reasonable time, the commission may, after such further
6161 investigation if any as is deemed necessary and proper and after a
6162 hearing held in the state where a violation occurs or has
6163 occurred, issue an order or orders upon any municipality, person,
6164 corporation or other entity within said party state violating
6165 provisions of this compact by discharging sewage or industrial
6166 wastes into the waters of the district which flow through, into or
6167 border upon any party state. Such order or orders may prescribe
6168 the date on or before which such discharge shall be wholly or
6169 partially discontinued, modified or treated or otherwise disposed



6170 of. The commission shall give reasonable and proper notice in
6171 writing of the time and place of the hearing to the municipality,
6172 person, corporation or other entity against which such order is
6173 proposed except that when the commission shall find that a public
6174 health emergency exists, it may issue such an order pending
6175 hearing. In all such instances, the hearing shall be promptly
6176 held and the order shall be withdrawn, modified or made permanent
6177 within thirty (30) days after hearing. No order prescribing the
6178 date on or before which such discharge shall be wholly or
6179 partially discontinued, modified or treated or otherwise disposed
6180 of shall go into effect upon a municipality, person, corporation
6181 or other entity in any state unless and until it receives the
6182 approval of a majority of the commissioners from each of not less
6183 than a majority of the party states, provided that such order
6184 receives the assent of not less than a majority of the
6185 commissioners from such state.

6186 B. It shall be the duty of the municipality, person,
6187 corporation or other entity within a party state to comply with
6188 any such order against it or him by the commission, and any court
6189 of competent jurisdiction in any of the party states shall have
6190 jurisdiction, by mandamus, injunction, specific performance or
6191 other form of remedy, to enforce any such order against any
6192 municipality, person, corporation or other entity domiciled,
6193 located or doing business within such state; provided, however,
6194 such court may review the order and affirm, reverse or modify the



6195 same in any appropriate proceeding brought and upon any of the
6196 grounds customarily applicable in proceedings for court review of
6197 administrative decisions. The commission or, at its request, the
6198 attorney general or other law enforcing official of the
6199 appropriate state shall have power to institute in such court any
6200 action for the enforcement of such order.

6201 Article IX

6202 Nothing in this compact shall be construed to limit the
6203 powers of any party state, or to repeal or prevent the enactment
6204 of any legislation, or the enforcement of any requirement by any
6205 party state, imposing any additional conditions and restrictions
6206 to further reduce or prevent the pollution of waters within its
6207 jurisdiction.

6208 Article X

6209 A. Nothing contained in this compact shall be construed
6210 so as to conflict with any provision of the Ohio River Valley
6211 Water Sanitation Compact or to impose obligations on any party
6212 state inconsistent with those which it has undertaken or may
6213 undertake by virtue of its membership in said compact; provided
6214 that nothing contained in this article shall be deemed to limit
6215 the commission's power to set higher standards for the waters of
6216 the Tennessee River Basin Water Pollution Control District or any
6217 portion thereof than those required for the Ohio River Valley
6218 Water Sanitation District.



6219 B. Nothing contained in this compact shall be deemed to
6220 give the commission any power or jurisdiction over any aspect of
6221 pollution abatement or control within the district unless existing
6222 or future pollution of such waters does or is likely to affect
6223 adversely the quality of water flowing among, between, into or
6224 through the territory of more than one party state.

6225 Article XI

6226 Any two (2) or more of the party states by legislative
6227 action may enter into supplementary agreements for further
6228 regulation and abatement of water pollution in other areas within
6229 the party states and for the establishment of common or joint
6230 services or facilities for such purpose and designate the
6231 commission to act as their joint agency in regard thereto. Except
6232 in those cases where all member states join in such supplementary
6233 agreement and designation, the representatives in the commission
6234 of any group of such designating states shall constitute a
6235 separate section of the commission for the performance of the
6236 function or functions so designated and with such voting rights
6237 for these purposes as may be stipulated in such agreement;
6238 provided that, if any additional expense is involved, the member
6239 states so acting shall appropriate the necessary funds for this
6240 purpose. No supplementary agreement shall be valid to the extent
6241 that it conflicts with the purposes of this compact and the
6242 creation of such a section as a joint agency shall not affect the
6243 privileges, powers, responsibilities or duties of the member



6244 states participating therein as embodied in the other articles of
6245 this compact.

6246 Article XII

6247 This compact shall enter into force and become effective and
6248 binding when it has been enacted by the legislature of Tennessee
6249 and by the legislatures of any one or more of the states of
6250 Alabama, Georgia, Kentucky, Mississippi, North Carolina and
6251 Virginia and upon approval by the Congress of the United States
6252 and thereafter shall enter into force and become effective and
6253 binding as to any other of said states when enacted by the
6254 legislature thereof.

6255 Article XIII

6256 This compact shall continue in force and remain binding upon
6257 each party state until renounced by act of the legislature of such
6258 state, in such form and manner as it may choose; provided that
6259 such renunciation shall not become effective until six (6) months
6260 after the effective date of the action taken by the legislature.
6261 Notice of such renunciation shall be given to the other party
6262 states by the secretary of state of the party state so renouncing
6263 upon passage of the act.

6264 Article XIV

6265 The provisions of this compact or of agreements thereunder
6266 shall be severable and if any phrase, clause, sentence or
6267 provision of this compact, or such agreement, is declared to be
6268 contrary to the constitution of any participating state or of the



6269 United States or the applicability thereof to any state, agency,
6270 person or circumstances is held invalid, the constitutionality of
6271 the remainder of this compact or of any agreement thereunder and
6272 the applicability thereof to any state, agency, person or
6273 circumstance shall not be affected thereby, provided further that
6274 if this compact or any agreement thereunder shall be held contrary
6275 to the Constitution of the United States or of any state
6276 participating therein, the compact or any agreement thereunder
6277 shall remain in full force and effect as to the remaining states
6278 and in full force and effect as to the state affected as to all
6279 severable matters. It is the legislative intent that the
6280 provisions of this compact shall be reasonably and liberally
6281 construed.

6282 **SECTION 97.** Section 49-17-73, Mississippi Code of 1972, is
6283 brought forward as follows:

6284 49-17-73. When the governor shall have executed the compact
6285 on behalf of this state and shall have caused a verified copy
6286 thereof to be filed with the state secretary, and when such
6287 compact shall have been ratified by one or more of the states
6288 named in Section 49-17-71, then compact shall become operative and
6289 effective as between this state and such other state or states.
6290 The governor is hereby authorized and directed to take such action
6291 as may be necessary to complete the exchange of official documents
6292 as between this state and any other state ratifying the compact.



6293 **SECTION 98.** Section 49-17-75, Mississippi Code of 1972, is
6294 brought forward as follows:

6295 49-17-75. The commission contemplated by Article IV of the
6296 above compact shall consist of three (3) members, as follows: One
6297 legislator, who may either be a member of the Mississippi State
6298 Senate or the Mississippi House of Representatives, to be
6299 appointed by the Mississippi Commission on Interstate
6300 Co-operation, and two (2) executive officers or employees in the
6301 executive branch of the state government whose duties, experience
6302 and abilities qualify them for such a position, to be appointed by
6303 the governor. Each member of the commission must be a qualified
6304 voter of this state and shall serve for a term of four (4) years
6305 and be eligible to immediately succeed himself.

6306 **SECTION 99.** Section 49-17-77, Mississippi Code of 1972, is
6307 brought forward as follows:

6308 49-17-77. The three (3) commissioners from the State of
6309 Mississippi shall be authorized to do any and all things necessary
6310 in order to effectuate the terms and provisions of the compact
6311 contained herein and Sections 49-17-71 through 49-17-77 shall be
6312 entitled to a liberal interpretation in order to carry out the
6313 spirit and intent of the aforesaid compact.

6314 **SECTION 100.** Section 49-17-81, Mississippi Code of 1972, is
6315 brought forward as follows:



6316 49-17-81. Sections 49-17-81 through 49-17-89 shall be known
6317 and cited as the "Mississippi Water Pollution Control Revolving
6318 Fund and Emergency Loan Fund Act."

6319 **SECTION 101.** Section 49-17-83, Mississippi Code of 1972, is
6320 brought forward as follows:

6321 49-17-83. For the purposes of Sections 49-17-81 through
6322 49-17-89, the following words and phrases shall have the meaning
6323 ascribed in this section:

6324 (a) "Administrator" means the Administrator of the
6325 United States Environmental Protection Agency.

6326 (b) "Commission" means the Mississippi Commission on
6327 Environmental Quality.

6328 (c) "Department" means the Mississippi Department of
6329 Environmental Quality.

6330 (d) "Emergency fund" means the "Water Pollution Control
6331 Emergency Loan Fund" created under Section 49-17-86.

6332 (e) "Loan agreement" means an agreement by and among
6333 the commission, a political subdivision and the * * * Department
6334 of Revenue to evidence the terms and provisions of a loan under
6335 Sections 49-17-81 through 49-17-89.

6336 (f) "Loan fund" means the Water Pollution Abatement
6337 Loan Fund created pursuant to Section 49-17-61.

6338 (g) "Municipal security" means a bond, note or other
6339 evidence of indebtedness issued by a political subdivision to



6340 evidence a loan pursuant to the provisions of Sections 49-17-81
6341 through 49-17-89.

6342 (h) "Political subdivision" means any county,
6343 municipality, utility, district, political subdivision, or other
6344 governmental unit created under state law.

6345 (i) "Project" means a publicly owned wastewater
6346 collection, treatment or disposal system including sludge
6347 disposal, renovation, repair and upgrading of existing systems,
6348 nonpoint source pollution control management programs and estuary
6349 conservation and management programs, and otherwise qualified
6350 under rules of the commission pursuant to the federal Water
6351 Quality Act of 1987.

6352 (j) "Revolving fund" means the Mississippi Water
6353 Pollution Control Revolving Fund created under Section 49-17-85.

6354 (k) "State" means the State of Mississippi.

6355 **SECTION 102.** Section 49-17-85, Mississippi Code of 1972, is
6356 brought forward as follows:

6357 49-17-85. (1) There is established in the State Treasury a
6358 fund to be known as the "Water Pollution Control Revolving Fund,"
6359 which shall be administered by the commission acting through the
6360 department. The revolving fund may receive bond proceeds and
6361 funds appropriated or otherwise made available by the Legislature
6362 in any manner and funds from any other source, public or private.
6363 The revolving fund shall be maintained in perpetuity for the
6364 purposes established in this section.



6365 (2) There is established in the State Treasury a fund to be
6366 known as the "Water Pollution Control Hardship Grants Fund," which
6367 shall be administered by the commission acting through the
6368 department. The grants fund shall be maintained in perpetuity for
6369 the purposes established in this section. Any interest earned on
6370 monies in the grants fund shall be credited to that fund.

6371 (3) The commission shall promulgate regulations for the
6372 administration of the revolving fund program, the hardship grants
6373 program and for related programs authorized under this section.
6374 The regulations shall be in accordance with the federal Water
6375 Quality Act of 1987, as amended, and regulations and guidance
6376 issued under that act. The commission may enter into
6377 capitalization grant agreements with the United States
6378 Environmental Protection Agency and may accept capitalization
6379 grant awards made under Title VI of the Water Quality Act of 1987,
6380 as amended.

6381 (4) The commission shall establish a loan program which
6382 shall commence after October 1, 1988, to assist political
6383 subdivisions in the construction of water pollution control
6384 projects. Loans from the revolving fund may be made to political
6385 subdivisions as set forth in a loan agreement in amounts not
6386 exceeding one hundred percent (100%) of eligible project costs as
6387 established by the commission. Notwithstanding loan amount
6388 limitations set forth in Section 49-17-61, the commission may
6389 require local participation or funding from other sources, or



6390 otherwise limit the percentage of costs covered by loans from the
6391 revolving fund. The commission may establish a maximum amount for
6392 any loan in order to provide for broad and equitable participation
6393 in the program.

6394 (5) The commission shall establish a hardship grants program
6395 for rural communities, which shall commence after July 1, 1997, to
6396 assist severely economically disadvantaged small rural political
6397 subdivisions in the construction of water pollution control
6398 projects. The commission may receive and administer state or
6399 federal funds, or both, appropriated for the operation of this
6400 grants program and may take all actions necessary to implement the
6401 program in accordance with the federal hardship grants program.
6402 The hardship grants program shall operate in conjunction with the
6403 revolving loan program administered under this section.

6404 (6) The commission shall act for the state in all matters
6405 and with respect to all determinations under Title VI of the
6406 federal Water Quality Act of 1987, as amended, and the federal
6407 Omnibus Appropriations and Recision Act of 1996.

6408 (7) Except as otherwise provided in this section, the
6409 revolving fund may be used only:

6410 (a) To make loans on the condition that:

6411 (i) The loans are made at or below market interest
6412 rates, at terms not to exceed the maximum time allowed by federal
6413 law after project completion; the interest rate and term may vary



6414 from time to time and from loan to loan at the discretion of the
6415 commission;

6416 (ii) Periodic principal and interest payments will
6417 commence when required by the commission but not later than one
6418 (1) year after project completion and all loans will be fully
6419 amortized when required by the commission but not later than the
6420 maximum time allowed by federal law after project completion;

6421 (iii) The recipient of a loan will establish a
6422 dedicated source of revenue for repayment of loans;

6423 (b) To buy or refinance the debt obligation of
6424 political subdivisions at or below market rates, where the debt
6425 obligations were incurred after March 7, 1985, and where the
6426 projects were constructed in compliance with applicable federal
6427 and state regulations;

6428 (c) To guarantee, or purchase insurance for,
6429 obligations of political subdivisions where the action would
6430 improve credit market access or reduce interest rates;

6431 (d) To provide loan guarantees for similar revolving
6432 funds established by municipalities or intermunicipal agencies;

6433 (e) To earn interest on fund accounts;

6434 (f) To establish nonpoint source pollution control
6435 management programs;

6436 (g) To establish estuary conservation and management
6437 programs;



6438 (h) For the reasonable costs of administering the
6439 revolving fund and conducting activities under this act, subject
6440 to the limitations established in Section 603(d)(7) of Title VI of
6441 the federal Clean Water Act, as amended, and subject to annual
6442 appropriation by the Legislature;

6443 (i) In connection with the issuance, sale and purchase
6444 of bonds under Section 31-25-1 et seq., related to the funding of
6445 projects, to provide security or a pledge of revenues for the
6446 repayment of the bonds; and

6447 (j) To pay the principal and interest on bonds issued
6448 pursuant to Section 11 of Chapter 580, Laws of 2007, Section 1 of
6449 Chapter 492, Laws of 2008, Section 47 of Chapter 557, Laws of
6450 2009, Section 45 of Chapter 533, Laws of 2010, Section 3 of
6451 Chapter 480, Laws of 2011, Section 36 of Chapter 569, Laws of
6452 2013, Section 9 of Chapter 452, Laws of 2018, Section 1 of Chapter
6453 415, Laws of 2019, Section 16 of Chapter 492, Laws of 2020, and
6454 Section 137 of Chapter 480, Laws of 2021, as they become due;
6455 however, only interest and investment earnings on money in the
6456 fund may be utilized for this purpose.

6457 (8) The hardship grants program shall be used only to
6458 provide hardship grants consistent with the federal hardship
6459 grants program for rural communities, regulations and guidance
6460 issued by the United States Environmental Protection Agency,
6461 subsections (3) and (5) of this section and regulations



6462 promulgated and guidance issued by the commission under this
6463 section.

6464 (9) The commission shall establish by regulation a system of
6465 priorities and a priority list of projects eligible for funding
6466 with loans from the revolving fund.

6467 (10) The commission may provide a loan from the revolving
6468 fund only with respect to a project if that project is on the
6469 priority list established by the commission.

6470 (11) The revolving fund shall be credited with all payments
6471 of principal and interest derived from the fund uses described in
6472 subsection (7) of this section. However, notwithstanding any
6473 other provision of law to the contrary, all or any portion of
6474 payments of principal and interest derived from the fund uses
6475 described in subsection (7) of this section may be designated or
6476 pledged for repayment of a loan as provided in Section 31-25-28 in
6477 connection with a loan from the Mississippi Development Bank.

6478 (12) The commission may establish and collect fees to defray
6479 the reasonable costs of administering the revolving fund if it
6480 determines that the administrative costs will exceed the
6481 limitations established in Section 603(d)(7) of Title VI of the
6482 federal Clean Water Act, as amended. The administration fees may
6483 be included in loan amounts to political subdivisions for the
6484 purpose of facilitating payment to the commission. The fees may
6485 not exceed five percent (5%) of the loan amount.



6486 (13) Except as otherwise provided in this section, the
6487 commission may, on a case-by-case basis and to the extent allowed
6488 by federal law, renegotiate the payment of principal and interest
6489 on loans made under this section to the six (6) most southern
6490 counties of the state covered by the Presidential Declaration of
6491 Major Disaster for the State of Mississippi (FEMA-1604-DR) dated
6492 August 29, 2005, and to political subdivisions located in such
6493 counties; however, the interest on the loans shall not be forgiven
6494 for a period of more than twenty-four (24) months and the maturity
6495 of the loans shall not be extended for a period of more than
6496 forty-eight (48) months.

6497 (14) The commission may, on a case-by-case basis and to the
6498 extent allowed by federal law, renegotiate the payment of
6499 principal and interest on loans made under this section to Hancock
6500 County as a result of coverage under the Presidential Declaration
6501 of Major Disaster for the State of Mississippi (FEMA-1604-DR)
6502 dated August 29, 2005, and to political subdivisions located in
6503 Hancock County.

6504 **SECTION 103.** Section 49-17-86, Mississippi Code of 1972, is
6505 brought forward as follows:

6506 49-17-86. (1) (a) There is created a fund in the State
6507 Treasury to be designated as the "Water Pollution Control
6508 Emergency Loan Fund" hereinafter referred to as "emergency fund."

6509 (b) The emergency fund may receive appropriations, bond
6510 proceeds, grants, gifts, donations or funds from any source,



6511 public or private. The emergency fund shall be credited with all
6512 repayments of principal and interest derived from loans made from
6513 the emergency fund.

6514 (c) The monies in the emergency fund may be expended
6515 only in amounts appropriated by the Legislature.

6516 (d) The emergency fund shall be maintained in
6517 perpetuity for the purposes established in Sections 49-17-81
6518 through 49-17-89. Unexpended amounts remaining in the emergency
6519 fund at the end of a fiscal year shall not lapse into the State
6520 General Fund. Any interest earned on amounts in the emergency
6521 fund shall be deposited to the credit of the fund.

6522 (2) The commission shall establish a loan program to assist
6523 political subdivisions in making emergency improvements such as
6524 repairs to or replacement of machinery, equipment, materials,
6525 structures or devices in existing water pollution abatement
6526 projects or such other emergency water pollution abatement
6527 projects as the commission deems necessary. Loans from the
6528 emergency fund may be made to political subdivisions as set forth
6529 in a loan agreement in amounts not exceeding one hundred percent
6530 (100%) of eligible project costs as established by the commission.
6531 The commission may require local participation or funding from
6532 other sources, or otherwise limit the percentage of costs covered
6533 by loans from the emergency fund. The commission may establish a
6534 maximum amount for any loan not to exceed Three Hundred Fifty
6535 Thousand Dollars (\$350,000.00).



6536 (3) Except as otherwise provided in this section, the
6537 emergency fund may be used only:

6538 (a) To make loans on the condition that:

6539 (i) Loans are made at or below market interest
6540 rates, at terms not to exceed ten (10) years after project
6541 completion; the interest rate may vary from time to time and from
6542 loan to loan at the discretion of the commission.

6543 (ii) Periodic principal and interest payments will
6544 commence when required by the commission but not later than one
6545 (1) year after project completion and all loans will be fully
6546 amortized when required by the commission but not later than ten
6547 (10) years after project completion.

6548 (iii) The recipient of a loan shall establish a
6549 dedicated source of revenue for repayment of loans. In addition,
6550 the commission may require any loan recipient to impose a per
6551 connection surcharge on each customer for repayment of any loan
6552 funds provided under this section.

6553 (iv) The recipient of the loan is not in arrears
6554 in repayments to the Water Pollution Control Revolving Fund, the
6555 Water Pollution Control Emergency Loan Fund or under the Water
6556 Pollution Abatement Loan Program.

6557 (b) To provide financial assistance to political
6558 subdivisions in making emergency improvements such as repairs to
6559 or replacement of machinery, equipment, materials, structures or
6560 devices in existing water pollution abatement projects or such



6561 other emergency water pollution abatement projects as the
6562 commission deems necessary.

6563 (c) To defray the reasonable costs of administering the
6564 emergency fund and conducting activities under this section,
6565 subject to annual appropriation by the Legislature.

6566 (4) The commission shall establish a system of evaluating
6567 the eligibility of projects, including a determination of the
6568 emergency nature of a situation for which funding is sought.

6569 (5) The fund will be credited with all payments of principal
6570 and interest derived from the fund uses described in subsection
6571 (3) of this section. However, notwithstanding any other provision
6572 of law to the contrary, all or any portion of payments of
6573 principal and interest derived from the fund uses described in
6574 subsection (3) of this section may be designated or pledged for
6575 repayment of a loan as provided for in Section 31-25-28 in
6576 connection with a loan from the Mississippi Development Bank.

6577 (6) In addition to any amounts allowed under subsection
6578 (3)(c), the commission may establish and collect fees to further
6579 defray the reasonable costs of administering the emergency fund.
6580 Any administrative fees may be included in loan amounts to
6581 political subdivisions for the purpose of facilitating payment to
6582 the commission; fees may not exceed five percent (5%) of the loan
6583 amount. The commission may also use administrative fees collected
6584 pursuant to Section 49-17-85 to defray the reasonable costs of
6585 administering the emergency fund.



6586 (7) The board may, on a case-by-case basis, renegotiate the
6587 payment of principal and interest on loans made under this section
6588 to the six (6) most southern counties of the state covered by the
6589 Presidential Declaration of Major Disaster for the State of
6590 Mississippi (FEMA-1604-DR) dated August 29, 2005, and to political
6591 subdivisions located in such counties; however, the interest on
6592 the loans shall not be forgiven for a period of more than
6593 twenty-four (24) months and the maturity of the loans shall not be
6594 extended for a period of more than forty-eight (48) months.

6595 **SECTION 104.** Section 49-17-87, Mississippi Code of 1972, is
6596 brought forward as follows:

6597 49-17-87. (1) A political subdivision which receives a loan
6598 from the revolving fund or emergency fund is required to and
6599 authorized to pledge for the repayment of such loan (a) any part
6600 of the sales tax reimbursement to which it may be entitled under
6601 Section 27-65-75, and (b) any part of the homestead exemption
6602 annual tax loss reimbursement to which it may be entitled under
6603 Section 27-33-77, to meet a repayment schedule set forth in a loan
6604 agreement. The loan agreement shall provide for (i) monthly
6605 payments, (ii) semiannual payments or (iii) other periodic
6606 payments, the annual total of which shall not exceed the annual
6607 total for any other year of the loan by more than fifteen percent
6608 (15%). The loan agreement shall provide for the repayment of all
6609 funds received from the revolving fund within the maximum time
6610 allowed by federal law after project completion and repayment of



6611 all funds received from the emergency fund within not more than
6612 ten (10) years from the date of project completion. The
6613 Department of Revenue shall pay to the revolving fund or emergency
6614 fund monthly, or as often as is practicable, from the amount,
6615 which would otherwise be remitted to a political subdivision from
6616 its sales tax reimbursement or homestead exemption annual tax loss
6617 reimbursement, the amounts set forth in such loan agreement.

6618 (2) Before any political subdivision shall receive any loan
6619 from the revolving fund or the emergency fund, it shall have
6620 executed with the Department of Revenue and the commission a loan
6621 agreement evidencing that loan. The loan agreement hereinabove
6622 provided for shall not be construed to prohibit any recipient from
6623 prepaying any part or all of the funds received.

6624 (3) As determined by the commission, any political
6625 subdivision desiring to construct a project approved by the
6626 department and which receives a loan from the state for that
6627 purpose may be required to pledge as security for the repayment of
6628 that loan, all or any part of the revenues of any project
6629 constructed, improved, repaired, replaced, purchased or refinanced
6630 with the proceeds of such loan. Whenever any project is a part of
6631 a system or combined system, then all or any portion of the
6632 revenues of that system or combined system may be pledged to
6633 secure repayment of a loan as determined by the commission.

6634 The loan agreement shall provide for periodic payments, the
6635 annual total of which shall not exceed the annual total for any



6636 other year of the loan by more than fifteen percent (15%). The
6637 repayment schedule shall provide for the repayment of all funds
6638 received from the revolving fund within the maximum time allowed
6639 by federal law after project completion and repayment of all funds
6640 received from the emergency fund within not more than ten (10)
6641 years from the date of project completion. Payments under the
6642 loan agreement shall be made prior to the payments of principal or
6643 interest on any bonds issued by the political subdivision in
6644 connection with the project or projects to which loans from the
6645 revolving fund or emergency fund are made.

6646 The State Auditor, upon the request of the commission, shall
6647 audit the receipts and expenditures of each district whose monthly
6648 payments are to be received by the department, and if the State
6649 Auditor should find the political subdivision in arrears, the
6650 Auditor shall immediately begin withholding from funds due the
6651 taxing district in which the political subdivision is located,
6652 under Section 27-33-41, an amount equal to the payment due plus
6653 accrued interest, late charges and expenses incurred in the audit
6654 and issue a warrant for that amount to the revolving fund or
6655 emergency fund as directed below.

6656 The loan agreement hereinabove provided for shall not be
6657 construed to prohibit any recipient from prepaying any part or all
6658 of the funds received.

6659 (4) Loans or any bonds or other evidences of indebtedness
6660 which are incurred or issued either pursuant to this chapter or



6661 Section 31-25-1 et seq., in relation to this chapter, or pursuant
6662 to any other law as evidence of any loan made or indebtedness
6663 incurred pursuant to this chapter, shall not be deemed
6664 indebtedness within the meaning specified in Section 21-33-303,
6665 with regard to cities or incorporated towns, in Section 19-9-5,
6666 with regard to counties, and in any other state law establishing a
6667 similar indebtedness limitation with regard to political
6668 subdivisions other than cities, incorporated towns and counties.

6669 **SECTION 105.** Section 49-17-89, Mississippi Code of 1972, is
6670 brought forward as follows:

6671 49-17-89. (1) Political subdivisions are hereby authorized
6672 to borrow monies under the provisions of Sections 49-17-81 through
6673 49-17-89 to issue municipal securities to evidence such loans, and
6674 to enter into such other agreements necessary for such loans and
6675 municipal securities on such terms and conditions as such
6676 political subdivisions shall deem necessary and advisable.

6677 (2) In connection with the issuance of municipal securities
6678 by political subdivisions to evidence loans under the provisions
6679 of this chapter and as may be required by Section 31-25-1 et seq.,
6680 the following provisions shall specifically apply:

6681 (a) No notice of intent to issue municipal securities
6682 as may otherwise be required by state law shall be required.

6683 (b) The governing body of the political subdivision
6684 shall adopt such resolutions as may be necessary to borrow monies
6685 under this chapter, to issue and sell municipal securities to



6686 evidence such loans, and to approve and authorize the execution of
6687 any agreements related thereto.

6688 (c) Such loans and municipal securities shall be
6689 secured as provided for in Section 49-17-87.

6690 (d) Such loans and municipal securities shall not be
6691 deemed general obligations.

6692 (e) Such municipal securities shall be sold only to
6693 evidence the repayment of a loan under this chapter and may be
6694 sold at such price or prices, in such form, and subject to such
6695 terms and conditions of issue, redemption and maturity, rate of
6696 interest and time of payment of interest as otherwise provided for
6697 a loan under this chapter.

6698 (f) A political subdivision may pay all expenses,
6699 premiums, fees and commissions which it may deem necessary and
6700 advantageous in connection with any loan and the issuance and sale
6701 of municipal securities under this chapter.

6702 (g) Municipal securities issued under this chapter need
6703 not be validated as provided in Section 31-13-1 et seq.

6704 (h) This section shall be deemed to provide an
6705 additional, alternate and complete method for the doing of the
6706 things authorized hereby and shall be deemed and construed to be
6707 supplemental to any provisions of any other laws and not in
6708 derogation of any such provisions. In connection with the
6709 issuance of municipal securities under this chapter, a political



6710 subdivision shall not be required to comply with the provisions of
6711 any other law except as provided herein.

6712 **SECTION 106.** Section 49-17-101, Mississippi Code of 1972, is
6713 brought forward as follows:

6714 49-17-101. Whenever used in Sections 49-17-101 through
6715 49-17-123, unless a different meaning clearly appears from the
6716 context, the following terms, whether used in the singular or
6717 plural, shall be given the following meanings:

6718 (1) "Bonds" shall include notes, bonds and other
6719 obligations authorized to be issued under Sections 49-17-101
6720 through 49-17-123.

6721 (2) "Governing board" shall mean the governing bodies
6722 of the several counties and incorporated municipalities of the
6723 state as now or hereafter constituted; and in the event that any
6724 pollution control facilities shall be located in more than one (1)
6725 county, the term "governing board" shall also relate to the
6726 governing bodies of the several counties wherein such pollution
6727 control facilities shall be located.

6728 (3) "Municipality" shall mean a county or incorporated
6729 municipality of this state.

6730 (4) "Pollution control facilities" shall mean any
6731 facilities to be located in the municipality which are designed
6732 and used for the elimination, mitigation or prevention of air or
6733 water pollution, and shall include all facilities and equipment
6734 designed and used to collect, treat and thereafter dispose of all



6735 effluents and waste of any sort originating in or about or
6736 resulting from conduct of any industrial enterprise. Pollution
6737 control facilities may include facilities designed both for water
6738 and air pollution. Pollution control facilities may be constructed
6739 as part of, and may include facilities also designed for the
6740 recovery of chemicals or to serve some other purpose, but which
6741 also contribute to the elimination, mitigation or prevention of
6742 air or water pollution. Pollution control facilities financed
6743 pursuant to Sections 49-17-101 through 49-17-123 by a county or an
6744 incorporated municipality shall not be a part of such county's or
6745 municipality's municipal water or sewer system.

6746 (5) "Industry" shall mean any person, firm or
6747 corporation operating any enterprise or facility for the
6748 manufacturing, processing, generation, assembling, distributing,
6749 shipping or rendering of any type of energy, product, or public
6750 utility services from which operation conditions result which
6751 would, unless eliminated, mitigated or prevented, result in
6752 pollution of the atmosphere or waters situated in or abutting this
6753 state.

6754 (6) "Pollution authority" shall mean the Mississippi
6755 Air and Water Pollution Control Commission as established by
6756 Sections 49-17-1 through 49-17-43, as the same may be amended from
6757 time to time.

6758 (7) "Lease/sale" shall mean any agreement without
6759 limitation whereby a county or incorporated municipality shall



6760 lease and/or convey title to pollution control facilities to an
6761 industry, made by and between the governing board and such
6762 industry by which such industry agrees to pay to (and to secure if
6763 so required) the county or the incorporated municipality, as the
6764 case may be, or to any assignee thereof, the sums required to meet
6765 the payment of the principal, interest and redemption premium, if
6766 any, on any bonds, and/or the expenses, if any, of operation by
6767 such municipality or county.

6768 (8) "Board" shall mean the Mississippi Agricultural and
6769 Industrial Board.

6770 **SECTION 107.** Section 49-17-103, Mississippi Code of 1972, is
6771 brought forward as follows:

6772 49-17-103. Upon compliance with procedures prescribed
6773 herein, and subject to the provisions hereinafter stated in
6774 Sections 49-17-105 through 49-17-123, any municipality is hereby
6775 authorized and empowered:

6776 (a) To acquire, purchase, construct, operate, maintain
6777 and replace pollution control facilities;

6778 (b) To enlarge, expand and improve existing pollution
6779 control facilities;

6780 (c) To issue bonds for the purpose of defraying the
6781 cost of facilities contemplated by subsections (a) and (b) above;

6782 (d) To enter into agreements with any industry situated
6783 in the municipality to construct, operate, maintain, repair and
6784 replace said facilities;



6785 (e) To enter into a lease/sale with an industry for the
6786 lease and/or sale of such facilities to such industry;

6787 (f) To accept any state or federal grant that may be
6788 available to defray any part of the cost of such facilities.
6789 Provided, however, the agreements contemplated by subsections (d)
6790 and (e) above shall contain terms and conditions under which the
6791 industry shall pay to the municipality, or trustee, if any, for
6792 the bonds contemplated by subsection (c) above, such sums of money
6793 and at such periods as will equal the aggregate of principal,
6794 interest and redemption premium, if any, due on the bonds and also
6795 the costs, if any, to the municipality of operating, maintaining,
6796 insuring, repairing and replacing such facilities, or portions
6797 thereof, including a reasonable amount for reserves. Provided,
6798 further, any agreement contemplated by subsection (e) above shall
6799 further contain terms and conditions pursuant to which the said
6800 facilities shall be conveyed to the industry.

6801 **SECTION 108.** Section 49-17-105, Mississippi Code of 1972, is
6802 brought forward as follows:

6803 49-17-105. All bonds issued by a municipality under
6804 authority of Sections 49-17-101 through 49-17-123 shall be limited
6805 obligations of such municipality. The principal, interest and
6806 redemption premium, if any, shall be payable solely out of the
6807 moneys to be derived by the municipality pursuant to the
6808 agreements specified in subsections (d) and (e) of Section
6809 49-17-103. Bonds and interest coupons issued under authority of



6810 Sections 49-17-101 through 49-17-123 shall never constitute an
6811 indebtedness of such municipality within the meaning of any state
6812 constitutional provision or statutory limitation and shall never
6813 constitute nor give rise to a pecuniary liability of the
6814 municipality, or a charge against its general credit or taxing
6815 powers, and such fact shall be plainly stated on the face of each
6816 bond. Such bonds may be executed and delivered at any time as a
6817 single issue or from time to time as several issues, may be in
6818 such form and denominations, may be of such tenor, may be in
6819 registered or bearer form either as to principal or interest or
6820 both, may be payable in such installments and at such time or
6821 times not exceeding forty (40) years from their date, may be
6822 subject to such terms of redemption, may be payable at such place
6823 or places, may bear interest at such rate or rates as the
6824 governing board and the industry shall agree upon, provided that
6825 the bonds of any issue shall not bear a greater overall maximum
6826 interest rate to maturity than that allowed in Section 75-17-103;
6827 and may contain such other provisions not inconsistent herewith,
6828 as the municipality may determine, all of which shall be provided
6829 in the proceedings authorizing the bonds. Any bonds issued under
6830 the authority of Sections 49-17-101 through 49-17-123 may be sold
6831 at public or private sale at such price and in such manner and
6832 from time to time as may be determined by the governing board to
6833 be most advantageous, and the governing board may pay, as a part
6834 of the cost of acquiring any pollution control facility, and out



6835 of the bond proceeds, all expenses, premiums and commissions with
6836 the authorization, sale and issuance thereof. All bonds issued
6837 under the authority of Sections 49-17-101 through 49-17-123,
6838 except registered bonds which are registered otherwise than to
6839 bearer, and all interest coupons appurtenant thereto shall be
6840 construed to be negotiable instruments, despite the fact that they
6841 are payable solely from a specified source. The proceedings
6842 authorizing the issuance of bonds may provide for the issuance, in
6843 the future, of further bonds on a parity with those initially
6844 issued.

6845 Bonds issued hereunder shall be validated in the chancery
6846 court in which the municipality is located.

6847 **SECTION 109.** Section 49-17-107, Mississippi Code of 1972, is
6848 brought forward as follows:

6849 49-17-107. The principal, interest and premium, if any, on
6850 any bonds shall be secured by a pledge of the revenues payable to
6851 the municipality, as the case may be, pursuant to either of the
6852 agreements specified in subsections (d) and (e) of Section
6853 49-17-103 and may also, in the case of an agreement under
6854 subsection (e) of Section 49-17-103, be secured by a lien which
6855 may be subordinate to a prior lien on any other property given as
6856 security by the industry pursuant to the lease/sale and any bonds
6857 may be issued pursuant to and secured by a trust indenture. The
6858 proceedings under which bonds are authorized to be issued or any
6859 such trust indenture may contain any agreements and provisions



6860 customarily contained in instruments securing bonds, including,
6861 without limiting the generality of the foregoing, provisions
6862 respecting the fixing and collection of the sums payable by the
6863 industry to the municipality and/or the trustee, if any, as the
6864 case may be, pursuant to the lease/sale, the maintenance and
6865 insurance of the pollution control facilities, the creation and
6866 maintenance of special funds by the industry, and the rights and
6867 remedies available in the event of default to the bondholders or
6868 to the trustee under such trust indenture, all as the governing
6869 board shall deem advisable. Provided, however, that in making any
6870 such agreements or provisions no municipality shall have the power
6871 to obligate itself except with respect to any security pledged,
6872 mortgaged or otherwise made available by the industry for the
6873 securing of the bonds, and the application of the revenues from
6874 the agreement, made under either subsections (d) or (e) of Section
6875 49-17-103 and shall not have the power to incur a pecuniary
6876 liability or a charge upon its general credit or against its
6877 taxing powers. The proceedings authorizing any bonds hereunder and
6878 any trust indenture securing such bonds may provide that in the
6879 event of default in payment of the principal of or the interest on
6880 such bonds or in the performance of any agreement contained in
6881 such proceedings or trust indenture, such payment and performance
6882 may be enforced by mandamus or by the appointment of a receiver in
6883 equity with such powers as may be necessary to enforce the
6884 obligations thereof. No breach of any such agreement shall impose



6885 any pecuniary liability upon any municipality, or any charge upon
6886 its general credit or against its taxing power.

6887 The trustee or trustees under any trust indenture, or any
6888 depository specified by such trust indenture, may be such persons
6889 or corporations as the governing board shall designate,
6890 notwithstanding that they may be nonresidents of Mississippi or
6891 incorporated under the laws of the United States or the laws of
6892 other states of the United States.

6893 **SECTION 110.** Section 49-17-108, Mississippi Code of 1972, is
6894 brought forward as follows:

6895 49-17-108. Any bonds issued under authority of Sections
6896 49-17-101 through 49-17-123, and at any time outstanding, may, at
6897 any time and from time to time, be refunded by a municipality by
6898 the issuance of its refunding bonds in such amount as the
6899 governing board may deem necessary, but not to exceed in the
6900 aggregate the sum of (a) the principal amount of the obligations
6901 to be refunded, (b) applicable redemption premiums thereon, (c)
6902 unpaid interest on such obligations to be refunded to the date of
6903 delivery or exchange of the refunding bonds, (d) in the event the
6904 proceeds from the sale of the refunding bonds are to be deposited
6905 in trust as hereinafter provided, interest to accrue on such
6906 obligations to be refunded from the date of delivery of the
6907 refunding bonds to the date of maturity of such obligations to be
6908 refunded, or to the first redemption date of such obligations to
6909 be refunded, whichever shall be earlier, and (e) expenses,



6910 premiums and commissions deemed by the governing board to be
6911 necessary in connection with the issuance of the refunding bonds.

6912 Any such refunding may be effected whether the obligations to
6913 be refunded shall have then matured or shall thereafter mature,
6914 either by the exchange of the refunding bonds for the obligations
6915 to be refunded thereby or by sale of the refunding bonds and the
6916 application of the proceeds thereof to the payment of the
6917 obligations to be refunded thereby, provided that the holders of
6918 any bonds so to be refunded shall not be compelled without their
6919 consent to surrender their bonds for payment or exchange prior to
6920 the date on which they are payable or, if they are called for
6921 redemption, prior to the date on which they are, by their terms,
6922 subject to redemption, and regardless of whether or not the
6923 obligations to be refunded were issued in connection with the same
6924 projects or separate projects, and regardless of whether or not
6925 the obligations to be refunded shall be payable on the same date
6926 or different dates or shall be due serially or otherwise. Any
6927 refunding bonds issued under the authority of this section shall
6928 be payable from the revenues out of which the bonds to be refunded
6929 hereby were payable and shall be secured in accordance with the
6930 provisions of Section 49-17-107 and as authorized by this section.

6931 The principal proceeds from the sale of any refunding bonds
6932 shall be applied to the payment of any expenses, premiums and
6933 commissions incurred in connection with such refunding and as
6934 follows:



6935 (a) To the immediate payment and retirement of the
6936 obligations being refunded; or

6937 (b) Deposited in trust to provide for the payment and
6938 retirement of the obligations being refunded, including the
6939 interest thereon, and to pay interest on the refunding bonds prior
6940 to the retirement of the obligations being refunded. Money in any
6941 such trust fund may be invested in direct obligations of, or
6942 obligations the principal of and interest on which are guaranteed
6943 by, the United States of America, or obligations of any agency or
6944 instrumentality of the United States Government, or in
6945 certificates of deposit issued by a bank or trust company located
6946 in the State of Mississippi, if such certificates shall be secured
6947 by a pledge of any of said obligations having an aggregate market
6948 value equal to one hundred twenty percent (120%) of the principal
6949 amount of the certificates so secured. Nothing herein shall be
6950 construed as a limitation on the duration of any deposit in trust
6951 for the retirement of obligations being refunded, but which shall
6952 not have matured and which shall not be presently redeemable.
6953 Prior to the issuance of refunding bonds under this section no
6954 findings shall be required of the pollution authority under
6955 Section 49-17-111. In lieu of the petition required by Section
6956 49-17-121, the governing board shall file with the board a
6957 petition giving a brief explanation of the proposal to refund the
6958 obligations sought to be refunded, and financial statements on the
6959 company obligated under the lease/sale. Upon the filing of the



6960 petition, the board shall, as soon as practicable, approve the
6961 issuance of such refunding bonds, unless it determines that the
6962 issuance of such bonds would not be consistent with the purposes
6963 of Sections 49-17-101 through 49-17-123; and at any time not
6964 exceeding six (6) years following such approval the governing
6965 board may proceed with the issuance of such refunding bonds. The
6966 refunding bonds issued pursuant to this section shall be subject
6967 to all other terms and conditions of Sections 49-17-101 through
6968 49-17-123, except for those provisions which, by their terms, do
6969 not apply to such refunding bonds.

6970 It is the intent of the legislature that the terms used in this
6971 section shall have the meanings set forth in Section 49-17-101.

6972 **SECTION 111.** Section 49-17-109, Mississippi Code of 1972, is
6973 brought forward as follows:

6974 49-17-109. Contracts for acquisition, purchase, construction
6975 and/or installation of facilities contemplated by Sections
6976 49-17-101 through 49-17-123 shall be effected in the manner
6977 prescribed by law for public contracts; provided, however, where
6978 (a) the municipality finds and records such finding on its
6979 minutes, that because of availability or particular nature of such
6980 facilities, it would not be in the public interest or would less
6981 effectively achieve the purposes of Sections 49-17-101 through
6982 49-17-123 to enter into such contracts upon the basis of public
6983 bidding pursuant to advertisement, (b) the industry concurs in
6984 such finding, and (c) such finding is approved by the board,



6985 public bidding pursuant to advertisement may be dispensed with and
6986 such contracts may be entered into based upon negotiation; and
6987 provided further, the industry at its option, may negotiate such
6988 contracts in the name of the municipality.

6989 **SECTION 112.** Section 49-17-111, Mississippi Code of 1972, is
6990 brought forward as follows:

6991 49-17-111. Prior to undertaking the financing of any
6992 pollution control facility, the governing board shall obtain a
6993 finding of the pollution authority that the pollution control
6994 facilities are necessary and that the design thereof will result
6995 in the elimination, mitigation and/or prevention of air or water
6996 pollution.

6997 **SECTION 113.** Section 49-17-113, Mississippi Code of 1972, is
6998 brought forward as follows:

6999 49-17-113. Every agreement under either subsection (d) or
7000 (e) of Section 43-17-103 shall contain a covenant obligating the
7001 industry to effect the completion of the pollution control
7002 facilities if the proceeds of the bonds, including parity
7003 completion bonds, if any, prove insufficient, and each such
7004 lease/sale shall obligate the industry to make payments which
7005 shall be sufficient (a) to pay the principal of and interest on
7006 the bonds issued for such pollution control facilities, (b) to
7007 build up and maintain any reserves deemed by the governing board
7008 to be advisable in connection therewith, and (c) to pay the costs
7009 of maintaining the pollution control facilities in good repair and



7010 the cost of keeping it properly insured. Such agreement may
7011 provide for the issuance of additional parity bonds as required in
7012 order to complete the pollution control facility.

7013 **SECTION 114.** Section 49-17-115, Mississippi Code of 1972, is
7014 brought forward as follows:

7015 49-17-115. Any agreement made under subsection (e) of
7016 Section 49-17-103 may provide that the pollution control
7017 facilities will be owned by the municipality, and leased to the
7018 industry; may provide the industry with an option to purchase the
7019 pollution control facility upon such terms and conditions as the
7020 governing board and the industry shall agree upon at a price which
7021 may be a nominal amount or less than the true value at the time of
7022 purchase; or may provide that the pollution control facilities
7023 shall become the property of the industry upon the acquisition
7024 thereof. Any such agreement may also, but is not required to,
7025 include a guaranty agreement whereby a corporation, foreign or
7026 domestic, other than the industry guarantees in whole or in part
7027 the obligations of the industry under the lease/sale upon such
7028 terms and conditions as the governing board may deem appropriate.

7029 **SECTION 115.** Section 49-17-117, Mississippi Code of 1972, is
7030 brought forward as follows:

7031 49-17-117. The proceeds from the sale of any bonds issued
7032 under authority of Sections 49-17-101 through 49-17-123 shall be
7033 applied only for the purpose for which the bonds were issued;
7034 provided, however, that any premium and accrued interest received



7035 in any such sale shall be applied to the payment of the principal
7036 of or the interest on the bonds sold; and provided, further, that
7037 if for any reason any portion of the proceeds shall not be needed
7038 for the purpose for which the bonds were issued, such unneeded
7039 portion of the proceeds shall be applied to the payment of the
7040 principal of or interest on the bonds. The cost of acquiring any
7041 pollution control facilities shall be deemed to include the
7042 following: the actual cost of the construction of any part of any
7043 pollution control facilities which may be constructed, including
7044 architect's, engineer's and legal fees; the purchase price of any
7045 land necessary therefor; the purchase price of any part of any
7046 pollution control facilities that may be acquired by purchase; all
7047 expenses in connection with the authorization, sale and issuance
7048 of the bonds to finance such acquisition; and the interest on the
7049 bonds for a reasonable time prior to construction, during
7050 construction, and for not exceeding one (1) year after completion
7051 of the construction.

7052 **SECTION 116.** Section 49-17-119, Mississippi Code of 1972, is
7053 brought forward as follows:

7054 49-17-119. The bonds authorized by Sections 49-17-101
7055 through 49-17-123 and the income therefrom, all trust indentures
7056 and mortgages executed as security therefor, all lease agreements
7057 made pursuant to the provisions hereof, and all pollution control
7058 facilities (when owned by the municipality) and the revenues
7059 derived from any agreement with respect thereto shall be exempt



7060 from all taxation by the State of Mississippi, and by any
7061 political subdivision thereof, except for inheritance, estate or
7062 transfer taxes and except further the contractors tax levied by
7063 Section 27-65-21, Mississippi Code of 1972.

7064 **SECTION 117.** Section 49-17-121, Mississippi Code of 1972, is
7065 brought forward as follows:

7066 49-17-121. No bonds shall be issued pursuant to the
7067 provisions of Sections 49-17-101 through 49-17-123 until the
7068 proposal of the governing board to issue the bonds shall receive
7069 the approval of the board. Whenever the governing board shall
7070 propose to issue bonds pursuant to the provisions of said
7071 sections, it shall file its petition to the board setting forth:
7072 (a) a brief description of the pollution control facilities
7073 proposed to be undertaken; (b) a statement setting forth the
7074 action taken by the pollution control authority in connection with
7075 the pollution control facilities; (c) a reasonable estimate of the
7076 cost of the pollution control facilities; (d) a general summary of
7077 the terms and conditions of the lease/sale; and (e) financial
7078 statements on lessee company. Upon the filing of the petition the
7079 board shall, as soon as practicable, make such investigation as it
7080 deems advisable, and if it finds that the proposed pollution
7081 control facilities are intended to promote the purposes of
7082 Sections 49-17-101 through 49-17-123 and may be reasonably
7083 anticipated to effect such result, it shall be authorized to
7084 approve the pollution control facilities, and at any time not



7085 exceeding six (6) years following such approval, the governing
7086 board may proceed with the issuance of bonds for the pollution
7087 control facilities. Notice of the approval by the board shall be
7088 published at least once by the governing board in a newspaper
7089 having general circulation in the county where the pollution
7090 control facilities are to be located. The governing board shall
7091 thereupon adopt and publish as required by law a resolution
7092 declaring its intention to issue said bonds.

7093 Any qualified elector may challenge the validity of such
7094 approval by intervention in the bond validation proceedings.

7095 Authority hereby vested in any governing board to issue, and
7096 the board to approve, revenue bonds pursuant to and in accordance
7097 with Sections 49-17-101 through 49-17-123 is supplemental to, and
7098 may be exercised irrespective of Sections 27-39-15, 57-1-1 to
7099 57-1-51, 57-1-71 to 57-1-83, 57-1-101 to 57-1-107, and 57-3-1 to
7100 57-3-33, Mississippi Code of 1972.

7101 **SECTION 118.** Section 49-17-123, Mississippi Code of 1972, is
7102 brought forward as follows:

7103 49-17-123. Nothing in Sections 49-17-101 through 49-17-123
7104 shall be construed as granting authority for participation under
7105 the provisions of Chapter 471, Laws of 1971, as now or hereafter
7106 amended or participation in state appropriations for pollution
7107 control purposes.

7108 **SECTION 119.** Section 49-17-401, Mississippi Code of 1972, is
7109 brought forward as follows:



7110 49-17-401. Sections 49-17-401 through 49-17-433 shall be
7111 known as the Mississippi Underground Storage Tank Act of 1988.

7112 **SECTION 120.** Section 49-17-403, Mississippi Code of 1972, is
7113 brought forward as follows:

7114 49-17-403. For the purposes of Sections 49-17-401 through
7115 49-17-433, the following shall have the meaning ascribed in this
7116 section:

7117 (a) "Active site" means a site of an underground
7118 storage tank where an owner can be identified and where the tank
7119 is available for use in the management and handling of motor
7120 fuels, including tanks currently in service, tanks temporarily
7121 closed and tanks temporarily out of service.

7122 (b) "Bonded distributor" means any person holding a
7123 distributor's permit issued under either Section 27-55-7 or
7124 Section 27-55-507.

7125 (c) "Commission" means the Mississippi Commission on
7126 Environmental Quality.

7127 (d) "Contamination" means the presence or discharge of
7128 regulated substances in or on the land or in the waters of the
7129 state.

7130 (e) "Department" means the Mississippi Department of
7131 Environmental Quality.

7132 (f) "Director" means the Executive Director of the
7133 Mississippi Department of Environmental Quality.



7134 (g) "Groundwater" means water located beneath the land
7135 surface located wholly or partially within the boundaries of the
7136 state.

7137 (h) "Motor fuels" means gasoline and aviation gasoline
7138 as defined in Section 27-55-5 and special fuel as defined in
7139 Section 27-55-505, except for those "motor fuels" used in electric
7140 power generating plants for the commercial production of
7141 electricity.

7142 (i) "Operator" means any person in control of, or
7143 having responsibility for, the daily operation of an underground
7144 storage tank.

7145 (j) "Owner of an underground storage tank" means:

7146 (i) In the case of an underground storage tank in
7147 use on November 8, 1984, or brought into use after that date, any
7148 person who owns an underground storage tank used for the storage,
7149 use or dispensing of regulated substances; and

7150 (ii) In the case of an underground storage tank in
7151 use before November 8, 1984, but no longer in use on that date,
7152 any person who owned such tank immediately before the
7153 discontinuation of its use.

7154 (k) "Person" means an individual, trust, firm,
7155 joint-stock company, federal agency, corporation, state
7156 municipality, commission, political subdivision of a state, any
7157 interstate body, a consortium, a joint venture, a commercial
7158 entity or the United States government.



7159 (1) "Regulated substance" means:

7160 (i) Any substance defined in Section 101(14) of

7161 the Comprehensive Environmental Response, Compensation and

7162 Liability Act of 1980, Public Law No. 96-510, as amended and

7163 extended (but not including any substance regulated as a hazardous

7164 waste under Section 17-17-1 et seq., Mississippi Code of 1972);

7165 and

7166 (ii) Petroleum, including crude oil or any

7167 fraction thereof, which is liquid at standard conditions of

7168 temperature and pressure (sixty (60) degrees Fahrenheit and

7169 fourteen and seven-tenths (14-7/10) pounds per square inch

7170 absolute).

7171 (m) "Release" means any spilling, leaking, emitting,

7172 discharging, escaping, leaching or disposing from an underground

7173 storage tank into groundwater, surface water or subsurface soils.

7174 (n) "Response action" means any activity, including

7175 evaluation, planning, design, engineering, construction and

7176 ancillary services, which is carried out in response to any

7177 discharge, release or threatened release of motor fuels.

7178 (o) "Response action contractor" means a person who has

7179 been approved by the commission and is carrying out any response

7180 action, including a person retained or hired by such person to

7181 provide services relating to a response action.

7182 (p) "Retailer" means any person other than a bonded

7183 distributor who sells motor fuel as defined in this section.



7184 (q) "Substantial compliance" means that an owner or
7185 operator of an underground storage tank has registered that tank
7186 with the department, and has made a good-faith effort to comply
7187 with the law; and the rules and regulations adopted pursuant
7188 thereto.

7189 (r) "Third-party claim" means any civil action brought
7190 or asserted by any person against any owner of any underground
7191 storage tank for damages to person or property which damages are
7192 the direct result of a release of motor fuels from an underground
7193 storage tank.

7194 (s) "Underground storage tank" means any one (1) or
7195 combination of containers including tanks, vessels, enclosures or
7196 structures together with appurtenances thereto used to contain an
7197 accumulation of regulated substances, and the volume of which,
7198 including the volume of the underground pipes connected thereto,
7199 is ten percent (10%) or more beneath the surface of the ground.
7200 Such term does not include any:

7201 (i) Farm or residential tanks of one thousand one
7202 hundred (1,100) gallons or less capacity used for storing motor
7203 fuel for noncommercial purposes;

7204 (ii) Tanks used for storing heating oil for
7205 consumptive use on the premises where stored;

7206 (iii) Septic tanks;

7207 (iv) Pipeline facilities (including gathering
7208 lines regulated under:



7209 1. The Natural Gas Pipeline Safety Act of
7210 1968, Public Law No. 90-481, 49 USCS 1671-1684, as amended and
7211 extended,

7212 2. The Hazardous Liquid Pipeline Safety Act
7213 of 1979, Public Law No. 96-129, 49 USCS 2001 et seq., as amended
7214 and extended, or

7215 3. An intrastate pipeline facility regulated
7216 under state laws comparable to the provisions of law in Clause 1
7217 or 2 of this subparagraph);

7218 (v) Surface impoundments, pits, ponds or lagoons;

7219 (vi) Storm water or wastewater collection systems;

7220 (vii) Flow-through process tanks;

7221 (viii) Liquid traps or associated gathering lines
7222 directly related to oil or gas production and gathering operation;

7223 (ix) Storage tanks situated in an underground area
7224 such as a basement, cellar, mine working, drift, shaft or tunnel
7225 if the storage tank is situated upon or above the surface of the
7226 floor;

7227 (x) Other tanks exempted by the Administrator of
7228 the federal Environmental Protection Agency; and

7229 (xi) Piping connected to any of the above
7230 exemptions.

7231 (t) "User" means any person who purchases or acquires
7232 motor fuels as defined in this section for consumption.



7233 **SECTION 121.** Section 49-17-405, Mississippi Code of 1972, is
7234 brought forward as follows:

7235 49-17-405. (1) There is hereby created the Mississippi
7236 Groundwater Protection Trust Fund, hereinafter referred to as the
7237 "fund" to be administered by the Executive Director of the
7238 Department of Environmental Quality. The commission shall adopt
7239 regulations for administering this fund.

7240 (2) The commission shall expend or utilize monies up to One
7241 Million Dollars (\$1,000,000.00) annually in the fund by an annual
7242 appropriation approved by the Legislature to supplement all
7243 reasonable direct and indirect costs associated with the
7244 development and administration of the Underground Storage Tank
7245 (UST) Program if the annual tank regulatory fee in Section
7246 49-17-421 does not adequately cover the costs associated with
7247 Sections 49-17-401 through 49-17-435. All reasonable direct and
7248 indirect costs associated with development and administration of
7249 the UST Program, including, but not limited to, the reasonable
7250 costs of the following activities as they relate to the UST
7251 Program:

7252 (a) Preparing generally applicable regulations or
7253 guidance regarding the UST Program or its implementation or
7254 enforcement;

7255 (b) Administering the UST Program, including the
7256 supporting and tracking of UST owners/operators and associated UST



7257 systems, compliance with UST regulations, the fund, UST-certified
7258 contractors, tank fees and related data entry;

7259 (c) Implementing and enforcing the terms of the UST
7260 regulations; and

7261 (d) Investigation, assessment and rehabilitation of
7262 contamination sites with restoration or replacement of potable
7263 water supplies.

7264 At no time shall an annual fund appropriation result in more
7265 than supplemental funding for the current annual cost of
7266 administering the UST Program.

7267 (3) Whenever in the executive director's determination a
7268 release of motor fuels at an active site may pose a threat to the
7269 environment or the public health, safety or welfare, the
7270 department shall obligate monies available in the fund to provide
7271 for:

7272 (a) Investigation and assessment of contamination
7273 sites;

7274 (b) Restoration or replacement of potable water
7275 supplies;

7276 (c) Rehabilitation of contamination sites, which may
7277 consist of cleanup of affected soil, groundwater and inland
7278 surface waters, using cost-effective alternatives that are
7279 technologically feasible and reliable, and that provide adequate
7280 protection of the public health, safety and welfare and minimize
7281 environmental damage, in accordance with the site selection and



7282 clean-up criteria established by the commission, except that
7283 nothing herein shall be construed to authorize the commission to
7284 obligate funds for payment of costs which may be associated with,
7285 but are not integral to, site rehabilitation, such as the cost for
7286 retrofitting or replacing underground storage tanks.

7287 (4) Whenever the commission has expended funds from the fund
7288 created by Sections 49-17-401 through 49-17-433, the owner of the
7289 underground storage tank shall not be liable to the department for
7290 such costs if the owner was in substantial compliance on the date
7291 on which the discharge of the motor fuels which necessitates the
7292 cleanup was reported to the department. Otherwise owners are
7293 responsible for reimbursement and the reimbursed monies shall go
7294 back into the fund. In such circumstances the commission is
7295 authorized to take any necessary action to recover these monies
7296 from responsible owners.

7297 (5) Any provisions of this section and chapter regarding
7298 liability for the costs of cleanup, removal, remediation or
7299 abatement of any pollution, hazardous waste or solid waste shall
7300 be limited as provided in Section 49-17-42 and rules adopted
7301 thereto.

7302 **SECTION 122.** Section 49-17-407, Mississippi Code of 1972, is
7303 brought forward as follows:

7304 49-17-407. (1) (a) An environmental protection fee of
7305 Four-tenths of One Cent (4/10 of 1¢) per gallon is hereby levied
7306 upon any bonded distributor, as defined by Sections 49-17-401



7307 through 49-17-433, who sells or delivers motor fuels to a retailer
7308 or user in this state.

7309 (b) Every person, other than a bonded distributor, who
7310 shall purchase or acquire motor fuels within this state on which
7311 the environmental protection fee has not accrued, shall be liable
7312 for the environmental protection fee.

7313 (c) The environmental protection fee shall be imposed
7314 only one (1) time on motor fuels sold in the state.

7315 (d) The environmental protection fee shall be collected
7316 by the Department of Revenue and shall be designated separately
7317 from the excise taxes on fuels.

7318 (e) Any person liable for the environmental protection
7319 fee shall be subject to the same requirements and penalties as
7320 distributors under the provisions of the Mississippi Special Fuel
7321 Tax Law.

7322 (f) Any person liable for the environmental protection
7323 fee shall file a report and remit any fees due at the same time
7324 provided for filing reports under Section 27-55-523, on forms
7325 prescribed by the Department of Revenue.

7326 (g) The Department of Revenue is hereby authorized and
7327 empowered to promulgate all rules and regulations necessary for
7328 the administration of the environmental protection fee.

7329 (2) (a) On or before the fifteenth day of each month the
7330 environmental protection fees collected during the previous month
7331 shall be deposited into the Mississippi Groundwater Protection



7332 Trust Fund established in Section 49-17-405. When the unobligated
7333 balance in the fund reaches or exceeds Ten Million Dollars
7334 (\$10,000,000.00), the administrator of the fund shall notify in
7335 writing the Department of Revenue no later than the twenty-fifth
7336 day of the month to revise the distribution of the environmental
7337 protection fee and the Department of Revenue shall deposit the fee
7338 into the State Highway Fund. Such distribution shall become
7339 effective on the last day of the month succeeding the month in
7340 which such notice was given. All environmental protection fees
7341 accrued shall be reported and paid.

7342 (b) When the fund balance is reduced below Six Million
7343 Dollars (\$6,000,000.00), the fee shall again be deposited into the
7344 Mississippi Groundwater Protection Trust Fund until such time as
7345 the fund shall reach or exceed Ten Million Dollars
7346 (\$10,000,000.00). The administrator of the fund shall notify, no
7347 later than the twenty-fifth day of the month, the Department of
7348 Revenue to deposit the environmental protection fee into the
7349 Mississippi Groundwater Protection Trust Fund and such
7350 distribution shall become effective on the first day of the second
7351 month succeeding the month in which the notice to deposit the fee
7352 into the fund was given.

7353 (3) This fund shall be used for the purposes set forth in
7354 Sections 49-17-401 through 49-17-435 and for no other governmental
7355 purposes, nor shall any portion hereof ever be available to borrow
7356 from by any branch of government; it being the intent of the



7357 Legislature that this fund and its increments shall remain intact
7358 and inviolate. Any interest earned on monies in this fund shall
7359 remain in this fund.

7360 (4) Monies held in the fund established under Sections
7361 49-17-401 through 49-17-435 shall be used for supplemental funding
7362 of the Underground Storage Tank (UST) Program as described in
7363 Section 49-17-405 and only at an active site and shall be
7364 disbursed in accordance with the commission requirements and as
7365 follows:

7366 (a) Payments shall be made to any third party who
7367 brings a third-party claim against any owner of an underground
7368 storage tank and the commission as trustee of the Mississippi
7369 Groundwater Protection Trust Fund and who obtains a final judgment
7370 in such action which is valid and enforceable in this state
7371 against such parties. Payment shall be paid to the third party
7372 upon filing by such party an application with the department
7373 attaching the original or a certified copy of the final judgment.

7374 (b) Payments shall be made in reasonable amounts to
7375 approved response action contractors and other parties involved in
7376 the site study and cleanup. Payment shall be made to the party
7377 incurring the costs by filing of a sworn application with the
7378 department indicating the fair and reasonable value of the costs
7379 of site rehabilitation, subject to the regulations and limitations
7380 as set by the department.

7381 (5) Payments from the fund are limited as follows:



7382 (a) For cleanup purposes, a maximum of One Million Five
7383 Hundred Thousand Dollars (\$1,500,000.00) may be disbursed from the
7384 fund for any one (1) site, per confirmed release occurrence.

7385 (b) For third-party judgments, a maximum of One Million
7386 Dollars (\$1,000,000.00) may be disbursed from the fund for any one
7387 (1) site, per confirmed release occurrence.

7388 (c) Nothing in Sections 49-17-401 through 49-17-435
7389 shall establish or create any liability or responsibility on the
7390 part of the department or the State of Mississippi to pay any
7391 cleanup costs or third-party claims if the fund created herein is
7392 insufficient to do so.

7393 (6) Monies held in the fund established under Sections
7394 49-17-401 through 49-17-435 shall not be used for purchases of
7395 equipment needed to assist in cleanup operations.

7396 (7) Nothing in Sections 49-17-401 through 49-17-435 shall
7397 serve to limit any recovery against an owner of an underground
7398 storage tank in excess of the fund payment limits established
7399 under this section.

7400 (8) Substantial compliance shall in no way be construed to
7401 be an absolute defense to civil liability.

7402 **SECTION 123.** Section 49-17-409, Mississippi Code of 1972, is
7403 brought forward as follows:

7404 49-17-409. The commission is authorized to establish
7405 requirements for the written reporting of motor fuel contamination
7406 incidents from underground storage tanks. All sites involving



7407 incidents of motor fuel contamination from underground storage
7408 tanks, where the owner of such tanks is in substantial compliance
7409 and files a written report with the commission of such incident,
7410 shall be qualified sites for the expenditure of funds from the
7411 Mississippi Groundwater Protection Trust Fund created by Sections
7412 49-17-401 through 49-17-433. Any funds so expended shall be
7413 absorbed at the expense of the fund, without recourse to
7414 reimbursement or recovery from any underground storage tank owner,
7415 subject to the following exceptions:

7416 (a) The provisions of this section shall not apply to
7417 any site where the department has initiated any cleanup or civil
7418 enforcement action prior to the passage of Sections 49-17-401
7419 through 49-17-433.

7420 (b) The provisions of this section shall not apply to
7421 any site where the department has been denied site access to
7422 implement the provisions of Sections 49-17-401 through 49-17-433.

7423 (c) The provisions of this section shall not be
7424 construed to authorize or require reimbursement from the fund for
7425 costs expended prior to the passage of Sections 49-17-401 through
7426 49-17-433.

7427 (d) The commission may determine, in its discretion,
7428 that the owner of an underground storage tank is not in
7429 substantial compliance for the purposes of this section and
7430 Section 49-17-405, if such owner of an underground storage tank



7431 has been delinquent in the payment of tank regulatory fees for
7432 more than three (3) months after such fee is due and payable.

7433 (e) Any provisions of this section and chapter
7434 regarding liability for the costs of cleanup, removal, remediation
7435 or abatement of any pollution, hazardous waste or solid waste
7436 shall be limited as provided in Section 49-17-42 and rules adopted
7437 thereto.

7438 **SECTION 124.** Section 49-17-411, Mississippi Code of 1972, is
7439 brought forward as follows:

7440 49-17-411. No person shall own, install or operate an
7441 underground storage tank without complying with the applicable
7442 regulations of the commission.

7443 **SECTION 125.** Section 49-17-413, Mississippi Code of 1972, is
7444 brought forward as follows:

7445 49-17-413. (1) The commission shall promulgate rules and
7446 regulations governing underground storage tanks, which shall
7447 include, but not be limited to:

7448 (a) Notification of abandoned underground storage
7449 tanks;

7450 (b) Registration of underground storage tanks currently
7451 under operation;

7452 (c) Standards for underground storage tanks. The
7453 commission shall distinguish in such standards between
7454 requirements appropriate for new tanks, for tanks in existence on
7455 the date of the promulgation of the standards and for abandoned



7456 tanks. These standards shall include, but not be limited to,
7457 design, construction, installation, release detection, and
7458 compatibility standards;

7459 (d) Release detection, prevention and corrective
7460 action;

7461 (e) Tank closure requirements;

7462 (f) Standards for monitoring, testing, reporting and
7463 record keeping;

7464 (g) Requirements for financial responsibility. The
7465 commission shall adopt requirements to insure financial
7466 responsibility for corrective action and compensation of third
7467 parties required by releases arising from the operation of an
7468 underground storage tank, except that such requirements shall not
7469 exceed those established by the United States Environmental
7470 Protection Agency (EPA). Financial responsibility may be
7471 established by any one (1) or combination of the following:
7472 insurance; guarantee; surety bond; letter of credit; qualification
7473 as a self-insurer; for owners of underground storage tanks
7474 containing motor fuels, use of the Mississippi Groundwater
7475 Protection Trust Fund; or any other financial assurance mechanism
7476 which shall be allowed under EPA regulations governing underground
7477 storage tanks; and

7478 (h) Requirements to implement the National Energy
7479 Policy Act of 2005 (EPACT), 42 USC 15801.



7480 (2) Variances and temporary emergency variances may be
7481 granted by the commission from any regulation adopted pursuant to
7482 Section 49-17-401 et seq.

7483 **SECTION 126.** Section 49-17-415, Mississippi Code of 1972, is
7484 brought forward as follows:

7485 49-17-415. For the purposes of identifying the source of
7486 known or suspected pollution, developing or assisting in the
7487 development of any regulation, conducting any study, taking
7488 corrective action or enforcing the provisions of Sections
7489 49-17-401 through 49-17-433, any owner or operator of an
7490 underground storage tank shall, upon the request of any duly
7491 authorized representative of the commission: furnish information
7492 relating to such tanks, including tank equipment and contents;
7493 conduct monitoring or testing; and permit the designated
7494 representative at all reasonable times to have access to and to
7495 copy all records relating to such tanks. For the purposes of
7496 identifying the source of known or suspected pollution, developing
7497 or assisting in the development of any regulation, conducting any
7498 study, or enforcing the provisions of Section 49-17-401 et seq.,
7499 any duly authorized representatives of the commission are
7500 authorized:

7501 (a) To enter at reasonable times any establishment or
7502 place where an underground storage tank is located;

7503 (b) To inspect and obtain samples from any person of
7504 any regulated substances contained in such tank; and



7505 (c) To conduct monitoring or testing of the tanks,
7506 associated equipment, contents or surrounding soils, air, surface
7507 water or groundwater.

7508 **SECTION 127.** Section 49-17-419, Mississippi Code of 1972, is
7509 brought forward as follows:

7510 49-17-419. Nothing contained in the Mississippi Underground
7511 Storage Tanks Act of 1988 (Sections 49-17-401 through 49-17-433)
7512 shall prevent the commission from requiring any owner of an
7513 underground storage tank from taking timely and effective
7514 corrective action.

7515 The commission may use the Pollution Emergency Fund for
7516 emergency or remedial cleanup of underground storage tank leaks
7517 when the tank owner will not take timely and effective action. In
7518 the event of the necessity for such immediate remedial or cleanup
7519 action, the commission may contract for same and advance funds
7520 from the Pollution Emergency Fund to pay the costs thereof, such
7521 advancements to be repaid to the Pollution Emergency Fund upon
7522 recovery by the commission from the tank owner.

7523 **SECTION 128.** Section 49-17-421, Mississippi Code of 1972, is
7524 brought forward as follows:

7525 49-17-421. (1) After receiving the annual report and
7526 recommendation of the Underground Storage Tank (UST) Advisory
7527 Council, the commission may assess and collect an annual tank
7528 regulatory fee in an amount sufficient to administer Sections
7529 49-17-401 through 49-17-435, but not to exceed Two Hundred Dollars



7530 (\$200.00) per tank. The fee, as set by the commission, shall be
7531 assessed per tank per year and shall be collected from the owner
7532 of each underground storage tank available for use in Mississippi
7533 on July 1, 1988, or brought into use or available for use after
7534 that date, as provided in the Mississippi Underground Storage Tank
7535 Act of 1988 (Sections 49-17-401 through 49-17-435). The fee
7536 assessed under this section is a debt due by the owner of each
7537 tank in use in Mississippi on July 1, 1988, or brought into use
7538 after that date.

7539 (2) The commission shall establish the amount of the tank
7540 regulatory fee to cover the costs of the Underground Storage Tank
7541 Program. The fee for each state fiscal year shall be set by order
7542 of the commission, which shall include:

7543 (a) A receipt of the report and recommendations of the
7544 UST Advisory Council * * *; and

7545 (b) A public notice to allow the public a period of at
7546 least thirty (30) days to provide comments regarding the
7547 underground storage tank fee report and recommendation, or to
7548 request a public hearing in accordance with Section
7549 49-17-29(4)(a).

7550 The department may conduct a public hearing on the tank
7551 regulatory fee when a significant level of public interest exists
7552 or when warranted by other factors. Notwithstanding the
7553 provisions of this subsection (2), the commission may proceed with



7554 entry of the order if the UST Advisory Council fails to submit its
7555 report in a timely manner.

7556 The tank regulatory fee shall be due July 1 of each year, and
7557 if any part of the fee is not paid within thirty (30) days after
7558 the due date, a penalty of fifty percent (50%) of the amount due
7559 shall accrue at once and be added to the fee, unless the owner of
7560 the underground storage tank demonstrates to the commission that
7561 the failure to make timely payment was unavoidable due to
7562 financial hardship or otherwise beyond the control of the owner.

7563 Monies collected under this section shall be deposited in a
7564 special fund which is created in the State Treasury. Unexpended
7565 amounts remaining in the special fund at the end of the fiscal
7566 year shall not lapse into the General Fund and any interest earned
7567 on amounts in the special fund shall be credited to the special
7568 fund by the Treasurer. The fund may receive monies from any
7569 available public or private source, including, but not limited to,
7570 the fund, collection of fees, interest, grants, taxes, public or
7571 private donations and judicial actions. Monies in this special
7572 fund shall be expended by annual appropriation approved by the
7573 Legislature to administer Sections 49-17-401 through 49-17-435.

7574 **SECTION 129.** Section 49-17-422, Mississippi Code of 1972, is
7575 brought forward as follows:

7576 49-17-422. (1) An Underground Storage Tank (UST) Advisory
7577 Council is created to consult with the commission on all matters
7578 relating to the UST program, to conduct an independent study of



7579 the development and administration costs of the program and to
7580 conduct an annual review of administering such program. The costs
7581 to be included in the study for the program shall be those costs
7582 as provided in Section 49-17-421. The council shall include in
7583 the study the type and quantity of underground storage tanks in
7584 the state that are covered by the program. After completing a
7585 study of the needs and costs of the program, the council shall
7586 recommend an equitable fee system for the program that is based on
7587 the type and quantity of underground storage tanks. The annual
7588 review for the program shall determine if the fee system is
7589 collecting sufficient funds to meet program needs and include any
7590 recommendation by the council regarding changes to the fee system.
7591 Each annual review report shall be due January 1 of each year to
7592 the commission and the executive director of the department.

7593 (2) The UST Advisory Council shall be comprised of the
7594 following five (5) members:

7595 (a) The President of the Mississippi Petroleum
7596 Marketers and Convenience Store Association (MPMCSA) or his or her
7597 designee;

7598 (b) A member of the MPMCSA appointed by the Board of
7599 Directors of the MPMCSA for a term of four (4) years;

7600 (c) A representative appointed by the President of the
7601 Mississippi Engineering Society, experienced in the assessment and
7602 remediation of petroleum contamination, for a term of four (4)
7603 years;



7604 (d) A representative appointed by the Governor, of any
7605 company doing business in Mississippi in the installation, closure
7606 and/or testing of underground storage tanks; and

7607 (e) A representative appointed by the Lieutenant
7608 Governor, of any company doing business in Mississippi in the
7609 installation, closure and/or testing of underground storage tanks.

7610 The council members who are appointed by the Governor and
7611 Lieutenant Governor shall have terms that are concurrent with the
7612 term of the appointing official.

7613 (3) Original appointments to the UST Advisory Council must
7614 be made no later than January 1, 2019, and vacancies on the
7615 council shall be filled by appointment in the same manner as the
7616 original appointments. The council shall convene within sixty
7617 (60) days following the date of the appointment of the members,
7618 and must select from their membership a chairperson to preside
7619 over meetings and a vice chairperson to preside in the absence of
7620 the chairperson or when the chairperson is excused. The council
7621 shall adopt procedures governing the manner of conducting its
7622 business. A majority of the members constitutes a quorum to do
7623 business.

7624 (4) Members of the UST Advisory Council shall serve without
7625 salary, but shall be entitled to receive a reimbursement of their
7626 actual travel and expenses, as provided in Section 25-3-41, that
7627 are incurred while performing in the scope of their duties as
7628 council members. These expenses are to be paid on an itemized



7629 statement that is approved by the State Fiscal Officer from fees
7630 collected under Section 49-17-421.

7631 (5) The executive director of the department shall provide
7632 technical, clerical and other support services, including service
7633 by contract, as the council requires in the performance of its
7634 functions.

7635 **SECTION 130.** Section 49-17-423, Mississippi Code of 1972, is
7636 brought forward as follows:

7637 49-17-423. The commission shall administer the expenditure
7638 of any funds made available from the Leaking Underground Storage
7639 Tank Trust Fund established by the Federal Superfund Amendments
7640 and Reauthorization Act of 1986, Public Law No. 99-499, October
7641 17, 1986, Public Law No. 99-563, October 27, 1986, 42 USCS
7642 Sections 9671-9675, and shall have authority to promulgate any
7643 rules and regulations necessary to administer this program.

7644 **SECTION 131.** Section 49-17-425, Mississippi Code of 1972, is
7645 brought forward as follows:

7646 49-17-425. The disclosure of any records, reports or
7647 information obtained pursuant to Section 49-17-401 et seq. shall
7648 be governed by the Mississippi Public Records Act of 1983, Section
7649 25-61-1 and Section 49-17-39, Mississippi Code of 1972, and the
7650 regulations of the commission promulgated thereunder.

7651 **SECTION 132.** Section 49-17-427, Mississippi Code of 1972, is
7652 brought forward as follows:



7653 49-17-427. (1) Whenever the commission or an employee
7654 thereof has reason to believe that a violation of any provision of
7655 this chapter, or of any order of the commission, or of any
7656 regulation promulgated pursuant to this chapter has occurred, the
7657 commission shall initiate proceedings in the same manner as
7658 provided in Sections 49-17-31 through 49-17-41, Mississippi Code
7659 of 1972.

7660 (2) Any person found by the commission violating any of the
7661 provisions of Sections 49-17-401 through 49-17-433, or any rule or
7662 regulation or written order of the commission shall be subject to
7663 a civil penalty of not more than Twenty-five Thousand Dollars
7664 (\$25,000.00) for each violation per day, such penalty to be
7665 assessed and levied by the commission as provided in Sections
7666 49-17-1 through 49-17-43, Mississippi Code of 1972.

7667 (3) In determining the amount of any penalty under this
7668 chapter, the commission shall consider at a minimum:

- 7669 (a) The willfulness of the violation;
- 7670 (b) Any damage to air, water, land or other natural
7671 resources of the state or their uses;
- 7672 (c) Costs of restoration or abatement;
- 7673 (d) Economic benefit as a result of noncompliance;
- 7674 (e) The seriousness of the violation, including any
7675 harm to the environment and any hazard to the health, safety and
7676 welfare of the public;
- 7677 (f) Past performance history; and



7678 (g) Whether the noncompliance was discovered and
7679 reported as the result of a voluntary self-evaluation. If a
7680 person discovers as a result of a voluntary self-evaluation,
7681 information related to noncompliance with an environmental law and
7682 voluntarily discloses that information to the department,
7683 commission or any employee thereof, the commission shall, to the
7684 greatest extent possible, reduce a penalty, if any, determined by
7685 the commission, except for economic benefit as a result of
7686 noncompliance, to a de minimis amount if all of the following are
7687 true:

7688 (i) The disclosure is made promptly after
7689 knowledge of the information disclosed is obtained by the person;

7690 (ii) The person making the disclosure initiates
7691 the appropriate corrective actions and pursues those corrective
7692 actions with due diligence;

7693 (iii) The person making the disclosure cooperates
7694 with the commission and the department regarding investigation of
7695 the issues identified in the disclosure;

7696 (iv) The person is not otherwise required by an
7697 environmental law to make the disclosure to the commission or the
7698 department;

7699 (v) The information was not obtained through any
7700 source independent of the voluntary self-evaluation or by the
7701 department through observation, sampling or monitoring;



7702 (vi) The noncompliance did not result in a
7703 substantial endangerment threatening the public health, safety or
7704 welfare or the environment; and

7705 (vii) The noncompliance is not a repeat violation
7706 occurring at the same facility within a period of three (3) years.
7707 "Repeat violation" in this subparagraph means a second or
7708 subsequent violation, after the first violation has ceased, of the
7709 same statutory provision, regulation, permit condition, or
7710 condition in an order of the commission.

7711 (4) Any provisions of this section and chapter regarding
7712 liability for the costs of cleanup, removal, remediation or
7713 abatement of any pollution, hazardous waste or solid waste shall
7714 be limited as provided in Section 49-17-42 and rules adopted
7715 thereto.

7716 **SECTION 133.** Section 49-17-429, Mississippi Code of 1972, is
7717 brought forward as follows:

7718 49-17-429. No person may install, alter or remove an
7719 underground storage tank after July 1, 1990, without first having
7720 been certified by the Commission on * * * Environmental Quality.
7721 The commission shall adopt rules and regulations setting forth the
7722 requirements for such certification which shall include, but not
7723 be limited to, a certification examination.

7724 **SECTION 134.** Section 49-17-431, Mississippi Code of 1972, is
7725 brought forward as follows:



7726 49-17-431. Any person aggrieved by any decision by the
7727 commission or the director relating to any provision of Sections
7728 49-17-401 through 49-17-433 shall have the right to appeal as
7729 provided in Section 49-17-41, Mississippi Code of 1972.

7730 **SECTION 135.** Section 49-17-433, Mississippi Code of 1972, is
7731 brought forward as follows:

7732 49-17-433. The provisions of Sections 49-17-401 through
7733 49-17-433 are severable. If any part of Sections 49-17-401
7734 through 49-17-433 is declared invalid or unconstitutional, such
7735 declaration shall not affect the part which remains.

7736 **SECTION 136.** Section 49-17-435, Mississippi Code of 1972, is
7737 brought forward as follows:

7738 49-17-435. Before November 15 of each year, the department
7739 shall report to the appropriate environmental committees of the
7740 Senate and House of Representatives on the status of the
7741 Underground Storage Tank Program and the Groundwater Protection
7742 Trust Fund. The report shall include at a minimum any
7743 recommendations for improvement of the program and for ensuring
7744 the soundness of the fund and, to the extent practicable, an
7745 assessment of any changes in the retail price of motor fuels
7746 caused by the environmental protection fee.

7747 **SECTION 137.** Section 49-17-501, Mississippi Code of 1972, is
7748 brought forward as follows:



7749 49-17-501. Sections 49-17-501 through 49-17-531 shall be
7750 known as and may be cited as the "Lead-Based Paint Activity
7751 Accreditation and Certification Act."

7752 **SECTION 138.** Section 49-17-503, Mississippi Code of 1972, is
7753 brought forward as follows:

7754 49-17-503. The purpose of Sections 49-17-501 through
7755 49-17-531 is to provide for the accreditation of lead-based paint
7756 activities training programs, procedures and requirements for
7757 certification of persons engaged in lead-based paint activities
7758 and development and implementation of work practice standards for
7759 lead-based paint activities in target housing, child-occupied
7760 facilities and other facilities regulated under Section 402 of the
7761 federal Toxic Substances Control Act. It is the intent of
7762 Sections 49-17-501 through 49-17-531 that the cost of the
7763 administration and enforcement of Sections 49-17-501 through
7764 49-17-531 shall be borne fully by federal grants and fees for
7765 accreditation, certification, renovation projects and abatement
7766 projects.

7767 **SECTION 139.** Section 49-17-505, Mississippi Code of 1972, is
7768 brought forward as follows:

7769 49-17-505. For purposes of Sections 49-17-501 through
7770 49-17-531, the following terms shall have the meaning ascribed
7771 herein unless the context clearly indicates otherwise:

7772 (a) "Abatement" means any measure or set of measures
7773 designed to permanently eliminate lead-based paint hazards



7774 consistent with 745 CFR Section 223. The term includes, but is
7775 not limited to, the removal of lead-based paint and
7776 lead-contaminated dust, the permanent enclosure or encapsulation
7777 of lead-based paint, the replacement of lead-painted surfaces or
7778 fixtures, and the removal or covering of lead-contaminated soil
7779 and all preparation, cleanup, disposal, and postabatement
7780 clearance testing activities associated with those measures. The
7781 term does not include renovation, remodeling, landscaping or other
7782 activities not designed to permanently eliminate lead-based paint
7783 hazards and interim controls, operations and maintenance
7784 activities or other activities and measures designed to
7785 temporarily, but not permanently reduce lead-based paint hazards.

7786 (b) "Accredited training program" means a training
7787 program that has been accredited by the commission, United States
7788 Environmental Protection Agency (EPA) or EPA-approved lead-based
7789 paint program in a state with reciprocity agreements with
7790 Mississippi to provide training for individuals engaged in
7791 lead-based paint activities.

7792 (c) "Certificate" means a document authorizing a person
7793 to perform lead-based paint activities as described in Sections
7794 49-17-501 through 49-17-531.

7795 (d) "Child-occupied facility," as this term applies to
7796 abatement activities, means a building, or portion of a building,
7797 constructed before 1978, visited regularly by the same child, six
7798 (6) years of age or under, on at least two (2) different days



7799 within any calendar week, if each day's visit lasts at least three
7800 (3) hours, the combined weekly visit lasts at least six (6) hours,
7801 and the combined annual visits last at least sixty (60) hours.
7802 Child-occupied facilities include, but are not limited to, day
7803 care centers, preschools and kindergarten classrooms.

7804 (e) "Child-occupied facility," as this term applies to
7805 renovation activities, means a building, or portion of a building,
7806 constructed prior to 1978, visited regularly by the same child,
7807 under six (6) years of age, on at least two (2) different days
7808 within any week, if each day's visit lasts at least three (3)
7809 hours and the combined weekly visits last at least six (6) hours,
7810 and the combined annual visits last at least sixty (60) hours.
7811 Child-occupied facilities may include, but are not limited to, day
7812 care centers, preschools and kindergarten classrooms.

7813 Child-occupied facilities may be located in target housing or in
7814 public or commercial buildings. With respect to common areas in
7815 public or commercial buildings that contain child-occupied
7816 facilities, the child-occupied facility encompasses only those
7817 common areas that are routinely used by children under age six
7818 (6), such as restrooms and cafeterias. Common areas that children
7819 under age six (6) only pass through, such as hallways, stairways,
7820 and garages are not included. In addition, with respect to
7821 exteriors of public or commercial buildings that contain
7822 child-occupied facilities, the child-occupied facility encompasses
7823 only the exterior sides of the building that are immediately



7824 adjacent to the child-occupied facility or the common areas
7825 routinely used by children under age six (6).

7826 (f) "Clearance levels" means the maximum amount of lead
7827 permitted in dust on a surface following completion of an
7828 abatement activity.

7829 (g) "Commission" means the Mississippi Commission on
7830 Environmental Quality.

7831 (h) "Department" means the Mississippi Department of
7832 Environmental Quality.

7833 (i) "Dust sampling technician" means an individual
7834 employed to perform dust clearance sampling.

7835 (j) "Executive director" means the Executive Director
7836 of the Mississippi Department of Environmental Quality.

7837 (k) "Firm" means a company, partnership, corporation,
7838 sole proprietorship, association, or other business entity or
7839 individual doing business that performs or offers to perform
7840 lead-based paint activities. This term also includes a federal,
7841 state, tribal, or local government agency, or a nonprofit
7842 organization that performs or offers to perform lead-based paint
7843 activities.

7844 (l) "Inspection" means a surface-by-surface
7845 investigation to determine the presence of lead-based paint and
7846 the provision of a report explaining the results of the
7847 investigation.



7848 (m) "Inspector" means an individual employed to inspect
7849 or reinspect for the presence of lead-based paint, to collect
7850 samples for the presence of lead in dust and soil for the purposes
7851 of abatement or renovation clearance testing and to prepare
7852 inspection reports.

7853 (n) "Lead-based paint" means paint or other surface
7854 coatings that contain lead equal to or in excess of one (1)
7855 milligram per square centimeter or more than one-half of one
7856 percent (0.5%) by weight.

7857 (o) "Lead-based paint activities" means inspection,
7858 risk assessment, abatement or renovation of target housing or
7859 child-occupied facilities.

7860 (p) "Lead-based paint hazard" means any condition that
7861 causes exposure to lead from lead-contaminated dust,
7862 lead-contaminated soil, or lead-contaminated paint that is
7863 deteriorated or present in accessible surfaces, friction surfaces,
7864 or impact surfaces that would result in adverse human health
7865 effects as identified by the Administrator of the United States
7866 Environmental Protection Agency.

7867 (q) "Minor repair and maintenance activities" means
7868 activities, including minor heating, ventilation or
7869 air-conditioning work, electrical work, and plumbing, that disrupt
7870 six (6) square feet or less of painted surface per room for
7871 interior activities or twenty (20) square feet or less of painted
7872 surface for exterior activities where none of the work practices



7873 prohibited or restricted by 40 CFR Section 745.85(a)(3) are used
7874 and where the work does not involve window replacement or
7875 demolition of painted surface areas. When removing painted
7876 components, or portions of painted components, the entire surface
7877 area removed is the amount of painted surface disturbed. Jobs,
7878 other than emergency renovations, performed in the same room
7879 within the same thirty (30) days must be considered the same job
7880 for the purpose of determining whether the job is a minor repair
7881 and maintenance activity.

7882 (r) "Person" means the state or other agency or
7883 institution thereof, any municipality, political subdivision,
7884 public or private corporation, individual, partnership, firm,
7885 association, independent contractor or other entity, and includes
7886 any officer or governing or managing body of any municipality,
7887 political subdivision, or public or private corporation, or the
7888 United States or any officer or employee thereof.

7889 (s) "Project designer" means an individual employed to
7890 prepare abatement project designs, occupant protection plans and
7891 abatement project reports.

7892 (t) "Renovation" means the modification of any existing
7893 structure, or portion thereof, that results in the disturbance of
7894 painted surfaces, unless that activity is performed as part of an
7895 abatement. The term "renovation" includes, but is not limited to:
7896 the removal, modification or repair of painted surfaces or painted
7897 components (e.g., modification of painted doors, surface



7898 restoration, window repair, surface preparation activity, sanding,
7899 scraping or other activities that may generate paint dust); the
7900 removal of building components (e.g., walls, ceilings, plumbing,
7901 windows); weatherization projects (e.g., cutting holes in painted
7902 surfaces to install blown-in insulation or to gain access to
7903 attics, planning thresholds to install weather-stripping); and
7904 interim controls that disturb painted surfaces. A renovation
7905 performed for the purpose of converting a building, or part of a
7906 building, into target housing or a child-occupied facility is a
7907 renovation. The term renovation does not include minor repair and
7908 maintenance activities.

7909 (u) "Renovator" means an individual who either performs
7910 or directs or supervises workers who perform renovations. A
7911 "certified renovator" is a renovator who has successfully
7912 completed a renovator course accredited by EPA or an
7913 EPA-authorized state or tribal program, and has been certified to
7914 perform renovations in the State of Mississippi.

7915 (v) "Residential dwelling" means a detached single
7916 family dwelling unit, including attached structures such as
7917 porches and stoops or a single family dwelling unit in a structure
7918 that contains more than one (1) separate residential dwelling
7919 unit, which is used or occupied, or intended to be used or
7920 occupied, in whole or in part, as the home or residence of one or
7921 more persons.



7922 (w) "Risk assessment" means an on-site investigation to
7923 determine the existence, nature, severity, and location of
7924 lead-based paint hazards and the provision of a report by the
7925 person conducting the risk assessment, explaining the results of
7926 the investigation and options for reducing lead-based paint
7927 hazards.

7928 (x) "Risk assessor" means an individual employed to
7929 conduct risk assessments and lead hazard screens, to prepare
7930 inspection reports and to collect samples for the presence of lead
7931 in dust and soil for the purposes of abatement and renovation
7932 clearance testing.

7933 (y) "Supervisor" means an individual designated by a
7934 contractor or certified firm to be responsible for the direction
7935 and conduct of lead-based paint abatement activities and to
7936 prepare occupant protection plans and abatement reports.

7937 (z) "Target housing," as this term refers to
7938 abatements, means any housing constructed before 1978, except
7939 housing for the elderly or persons with disabilities (unless any
7940 one or more children aged six (6) years or under resides or is
7941 expected to reside in that housing for the elderly or persons with
7942 disabilities) or any zero-bedroom dwelling.

7943 (aa) "Target housing," as this term refers to
7944 renovations, means any housing constructed before 1978, except
7945 housing for the elderly or persons with disabilities (unless any
7946 one or more children under the age of six (6) years resides or is



7947 expected to reside in that housing for the elderly or persons with
7948 disabilities) or any zero-bedroom dwelling.

7949 (bb) "Worker" means any individual who works on
7950 abatements or renovations.

7951 **SECTION 140.** Section 49-17-507, Mississippi Code of 1972, is
7952 brought forward as follows:

7953 49-17-507. In addition to any other powers and duties
7954 authorized by law, the commission shall have the following powers
7955 and duties regarding lead-based paint activities:

7956 (a) To adopt, modify, repeal and promulgate, after due
7957 notice and hearing, and where not otherwise prohibited by federal
7958 or state law, to make exceptions to and grant exemptions and
7959 variances from, and to enforce rules and regulations implementing
7960 or effectuating the powers and duties of the commission under
7961 Sections 49-17-501 through 49-17-531;

7962 (b) To issue, reissue, suspend, revoke or deny the
7963 issuance or reissuance of accreditation for lead-based paint
7964 activity training programs and to require the modification of
7965 those training programs;

7966 (c) To issue, reissue, suspend, revoke or deny the
7967 issuance or reissuance of certificates for risk assessors, project
7968 designers, supervisors, renovators, dust sampling technicians,
7969 inspectors and workers involved in lead-based paint activities;



7970 (d) To develop and require the use of work practice
7971 standards for lead-based paint activities and to monitor
7972 compliance with those work practice standards;

7973 (e) To establish pre-renovation information
7974 distribution requirements and monitor compliance with those
7975 requirements;

7976 (f) To enforce and assess penalties for violations of
7977 Sections 49-17-501 through 49-17-531;

7978 (g) To assess and collect fees for the accreditation of
7979 training programs, issuance and reissuance of certificates, and
7980 lead-based paint abatement and renovation projects;

7981 (h) To develop an examination and grading system for
7982 testing applicants to be administered by accredited training
7983 programs;

7984 (i) To establish requirements and procedures for the
7985 administration of a third-party certification examination;

7986 (j) To enter into reciprocal agreements for
7987 accreditation of training programs and certification of risk
7988 assessors, project designers, supervisors, renovators, dust
7989 sampling technicians, inspectors and workers with other states
7990 that have established accreditation and certification programs
7991 that meet or exceed the accreditation and certification
7992 requirements adopted under Sections 49-17-501 through 49-17-531;



7993 (k) To apply for, receive and expend any contributions,
7994 gifts, devises, bequests or funds from any source relating to
7995 Sections 49-17-501 through 49-17-531;

7996 (l) To enter into, and to authorize the executive
7997 director to execute with the approval of the commission,
7998 contracts, grants and cooperative agreements, except as limited
7999 under Section 49-2-9, with any federal or state agency or
8000 subdivision thereof, any public or private institution, or any
8001 other person in connection with carrying out Sections 49-17-501
8002 through 49-17-531; and

8003 (m) To discharge other duties, responsibilities and
8004 powers necessary to implement Sections 49-17-501 through
8005 49-17-531.

8006 **SECTION 141.** Section 49-17-509, Mississippi Code of 1972, is
8007 brought forward as follows:

8008 49-17-509. (1) The commission shall adopt regulations for
8009 accreditation of lead-based paint activity training programs.
8010 Accredited training programs shall ensure the availability of, and
8011 provide adequate facilities for, the delivery of lectures, course
8012 tests, hands-on training and assessment activities. This includes
8013 providing training equipment that reflects current work practices
8014 and maintaining or updating the equipment and facilities as
8015 needed. The training program shall offer courses which teach work
8016 practice standards for conducting lead-based paint activities as
8017 adopted by the United States Environmental Protection Agency or



8018 the commission under Sections 49-17-501 through 49-17-531. These
8019 standards shall be taught in the appropriate courses to provide
8020 trainees with the knowledge needed to perform the lead-based paint
8021 activities they are responsible for. The commission also may
8022 adopt accreditation requirements for training programs providing
8023 refresher training programs.

8024 (2) The commission shall adopt regulations establishing work
8025 practice standards for performing lead-based paint activities in
8026 target housing and child-occupied facilities. These standards may
8027 include appropriate documented methodologies, clearance levels and
8028 requirements for lead hazard screens, risk assessments, abatement
8029 activities, renovation activities, sample collection and analysis
8030 and record keeping. Beginning on August 31, 1998, all lead-based
8031 paint activities shall be performed in accordance with work
8032 practice standards adopted under Sections 49-17-501 through
8033 49-17-531. The commission shall implement a compliance monitoring
8034 program to ensure compliance with the work practice standards.

8035 (3) The commission shall adopt regulations for certification
8036 of lead-based paint risk assessors, project designers, renovators,
8037 dust sampling technicians, supervisors, inspectors and workers.

8038 (4) Applicants for the issuance or reissuance of
8039 certificates required under Sections 49-17-511 through 49-17-519
8040 shall submit to the commission, on forms prepared by the
8041 commission, an application. In addition, the applicant shall
8042 submit documentation deemed appropriate by the commission



8043 providing the educational background and demonstrating
8044 satisfactory completion of the applicable training programs and
8045 shall pay the applicable fee.

8046 (5) The commission shall require certificates issued under
8047 Sections 49-17-511 through 49-17-521 to be reissued annually.

8048 (6) Except as otherwise required by Sections 49-17-501
8049 through 49-17-531, regulations adopted under Sections 49-17-501
8050 through 49-17-531 shall be no more stringent than federal
8051 regulations for lead-based paint activities.

8052 (7) Sections 49-17-501 through 49-17-531 do not apply to a
8053 person who is performing lead-based paint activities or abatement
8054 of lead-based paint hazards or renovation in a residential
8055 dwelling owned by that person, unless the residential dwelling is
8056 occupied by a person or persons other than the owner or owner's
8057 immediate family while these activities are being performed, or a
8058 child residing in the building has been identified as having an
8059 elevated blood lead level.

8060 **SECTION 142.** Section 49-17-511, Mississippi Code of 1972, is
8061 brought forward as follows:

8062 49-17-511. (1) After August 31, 1998, it is unlawful for an
8063 individual who does not possess a valid lead-based paint risk
8064 assessor certificate to conduct a risk assessment or lead hazard
8065 screen as part of any lead-based paint activity.

8066 (2) To qualify for a lead-based paint risk assessor
8067 certificate, an applicant shall:



8068 (a) (i) Be a registered professional engineer or a
8069 licensed architect; or

8070 (ii) Have a bachelor's degree in a profession
8071 related to engineering, health or environmental science and one
8072 (1) year of experience in a related field, as determined by the
8073 commission; or

8074 (iii) Have an associate's degree and two (2) years
8075 of experience in a related field, as determined by the commission;
8076 or

8077 (iv) Have a high school diploma or equivalent and
8078 three (3) years of experience in a related field, as determined by
8079 the commission;

8080 (b) Satisfactorily complete an accredited training
8081 program for lead-based paint risk assessors and lead-based paint
8082 inspectors; and

8083 (c) Demonstrate to the satisfaction of the commission
8084 that the applicant is familiar with and capable of complying fully
8085 with all applicable federal and state laws and regulations.

8086 **SECTION 143.** Section 49-17-513, Mississippi Code of 1972, is
8087 brought forward as follows:

8088 49-17-513. (1) After August 31, 1998, it is unlawful for
8089 any person who does not possess a valid lead-based paint project
8090 designer certificate to prepare abatement project designs,
8091 occupant protection plans and abatement reports.



8092 (2) To qualify for a lead-based paint project designer
8093 certificate, an applicant shall:

8094 (a) (i) Be a registered professional engineer or a
8095 licensed architect; or

8096 (ii) Have a bachelor's degree in engineering,
8097 architecture or a profession related to engineering or
8098 architecture and one (1) year of experience in building design or
8099 a related field, as determined by the commission; or

8100 (iii) Have an associate's degree and two (2) years
8101 of experience in building design or a related field, as determined
8102 by the commission; or

8103 (iv) Have a high school diploma or equivalent and
8104 three (3) years of experience in building design or a related
8105 field, as determined by the commission;

8106 (b) Satisfactorily complete an accredited training
8107 program for lead-based paint project designers and lead-based
8108 paint supervisor; and

8109 (c) Demonstrate to the satisfaction of the commission
8110 that the applicant is familiar with and capable of complying fully
8111 with all applicable federal and state laws and regulations.

8112 **SECTION 144.** Section 49-17-515, Mississippi Code of 1972, is
8113 brought forward as follows:

8114 49-17-515. (1) After August 31, 1998, it is unlawful for an
8115 individual who does not possess a valid lead-based paint
8116 supervisor certificate to direct a lead-based paint abatement



8117 activity and to prepare occupant protection plans and abatement
8118 reports.

8119 (2) To qualify for a lead-based paint supervisor
8120 certificate, an applicant shall:

8121 (a) Have a high school diploma or its equivalent and
8122 one (1) year of experience as a certified lead-based paint
8123 abatement worker or two (2) years of experience in a related
8124 field, as determined by the commission or in the building trades;

8125 (b) Satisfactorily complete an accredited training
8126 program for lead-based paint supervisors; and

8127 (c) Demonstrate to the satisfaction of the commission
8128 that the applicant is familiar with and capable of complying fully
8129 with all applicable federal and state laws and regulations.

8130 **SECTION 145.** Section 49-17-516, Mississippi Code of 1972, is
8131 brought forward as follows:

8132 49-17-516. (1) After July 1, 2009, it is unlawful for an
8133 individual who does not possess a valid lead-based paint renovator
8134 certificate to direct a lead-based paint renovation activity
8135 and/or conduct testing to determine the presence of lead-based
8136 paint on components affected by renovation activities.

8137 (2) To qualify for a lead-based paint renovator certificate,
8138 an applicant shall:

8139 (a) Have a high school diploma or its equivalent and
8140 one (1) year of experience as a lead-based paint abatement or



8141 renovation worker or two (2) years of experience in a related
8142 field, as determined by the commission or in the building trades;

8143 (b) Satisfactorily complete an accredited training
8144 program for lead-based paint renovators; or

8145 (c) Have successfully completed an accredited abatement
8146 worker or supervisor course, or have successfully completed an
8147 EPA, HUD or EPA/HUD model renovation training course and have
8148 taken an accredited refresher renovator training course; and

8149 (d) Demonstrate to the satisfaction of the commission
8150 that the applicant is familiar with and capable of complying fully
8151 with all applicable federal and state laws and regulations.

8152 **SECTION 146.** Section 49-17-517, Mississippi Code of 1972, is
8153 brought forward as follows:

8154 49-17-517. (1) After August 31, 1998, it is unlawful for an
8155 individual who does not possess a valid lead-based paint inspector
8156 certificate to work as an inspector on a lead-based paint
8157 activity.

8158 (2) To qualify for a lead-based paint inspector certificate,
8159 an applicant shall:

8160 (a) Have a high school diploma or its equivalent;

8161 (b) Satisfactorily complete an accredited training
8162 program for lead-based paint inspectors; and

8163 (c) Demonstrate to the satisfaction of the commission
8164 that the applicant is familiar with and capable of complying fully
8165 with all applicable federal and state laws and regulations.



8166 **SECTION 147.** Section 49-17-518, Mississippi Code of 1972, is
8167 brought forward as follows:

8168 49-17-518. (1) After July 1, 2009, it is unlawful for an
8169 individual who does not possess a valid lead-based paint dust
8170 sampling technician certificate to work as a dust sampling
8171 technician on a lead-based paint renovation.

8172 (2) To qualify for a lead-based paint dust sampling
8173 technician certificate, an applicant shall:

8174 (a) Have a high school diploma or its equivalent;

8175 (b) Satisfactorily complete an accredited training
8176 program for lead-based paint dust sampling technicians; or

8177 (c) Have successfully completed an accredited
8178 lead-based paint inspector or risk assessor course and have
8179 completed an accredited refresher dust sampling technician course;
8180 and

8181 (d) Demonstrate to the satisfaction of the commission
8182 that the applicant is familiar with and capable of complying fully
8183 with all applicable federal and state laws and regulations.

8184 **SECTION 148.** Section 49-17-519, Mississippi Code of 1972, is
8185 brought forward as follows:

8186 49-17-519. (1) After August 31, 1998, it is unlawful for an
8187 individual who does not possess a valid lead-based paint abatement
8188 worker certificate to work as a worker on a lead-based paint
8189 abatement activity.



8190 (2) After August 31, 1998, it is unlawful for a firm to
8191 employ a person as a worker on a lead-based paint abatement
8192 activity who does not possess a valid lead-based paint abatement
8193 worker certificate in accordance with this section.

8194 (3) To qualify for a lead-based paint abatement worker
8195 certificate an individual shall:

8196 (a) Satisfactorily complete an accredited training
8197 program for lead-based paint abatement workers; and

8198 (b) Demonstrate to the satisfaction of the commission
8199 that the applicant is familiar with and capable of complying fully
8200 with all applicable federal and state laws and regulations.

8201 (4) Workers engaged in renovation activities are not
8202 required to possess certification.

8203 **SECTION 149.** Section 49-17-521, Mississippi Code of 1972, is
8204 brought forward as follows:

8205 49-17-521. (1) After August 31, 1998, it is unlawful for
8206 any firm which does not possess a valid lead-based paint certified
8207 firm certificate to perform or offer to perform any lead-based
8208 paint activity covered under Sections 49-17-501 through 49-17-531.
8209 Certificates issued prior to July 1, 2009, shall be valid only for
8210 abatements. Certificates issued after July 1, 2009, shall
8211 indicate whether the firm is certified for renovations or
8212 abatements; or certified for both renovations and abatements.

8213 (2) To qualify for a lead-based paint certified firm
8214 certificate, an applicant shall submit to the commission a letter



8215 attesting that the firm shall employ only appropriately certified
8216 employees to conduct lead-based paint activities and that the firm
8217 and its employees shall follow the work practice standards adopted
8218 under Sections 49-17-501 through 49-17-531 in conducting those
8219 activities. Applicant's letter submitted after July 1, 2009,
8220 shall indicate whether the applicant intends to perform
8221 renovations or abatements; or to perform both renovations and
8222 abatements.

8223 (3) Applicants for lead-based paint certified firm
8224 certificate shall pay the applicable fee.

8225 **SECTION 150.** Section 49-17-523, Mississippi Code of 1972, is
8226 brought forward as follows:

8227 49-17-523. The commission may deny the issuance or
8228 reissuance of any certificate required under Sections 49-17-511
8229 through 49-17-521 if: (a) there has been a failure to comply with
8230 the application procedures established by regulations promulgated
8231 by the commission; (b) if the applicant fails to satisfy the
8232 application criteria established by Sections 49-17-501 through
8233 49-17-531 and by regulations promulgated by the commission; or (c)
8234 if the applicant fails to pay the applicable fee.

8235 **SECTION 151.** Section 49-17-525, Mississippi Code of 1972, is
8236 brought forward as follows:

8237 49-17-525. (1) (a) There is created in the State Treasury
8238 a fund to be designated as the Lead-Based Paint Program Operations
8239 Fund, referred to in this section as "fund," to be administered by



8240 the executive director and expended by appropriation approved by
8241 the Legislature.

8242 (b) Monies in the fund shall be utilized to pay
8243 reasonable direct and indirect costs associated with the
8244 administration, educational outreach and enforcement of the
8245 lead-based paint activity accreditation and certification program.

8246 (c) Expenditures may be made from the fund upon
8247 requisition by the executive director.

8248 (d) The fund shall be treated as a special trust fund.
8249 Interest earned on the principal therein shall be credited by the
8250 Treasurer to the fund.

8251 (e) The fund may receive monies from any available
8252 public or private source, including, but not limited to,
8253 collection of fees, interest, grants, taxes, public and private
8254 donations, judicial actions and appropriated funds.

8255 (f) Monies in the fund at the end of the fiscal year
8256 shall be retained in the fund for use in the next succeeding
8257 fiscal year to be expended by appropriation approved by the
8258 Legislature.

8259 (2) (a) The commission shall set by order a schedule of
8260 fees for the accreditation of training programs, issuance and
8261 reissuance of certificates and lead-based paint abatement and
8262 renovation projects. The commission shall graduate fee levels to
8263 reflect the type of certificate and the size of the project, as
8264 the case may be.



8265 (b) All monies collected under this section shall be
8266 deposited into the fund.

8267 (c) The commission may delegate to the department
8268 responsibility for the collection of fees under this section.

8269 (d) Any person required to pay a fee under this section
8270 who disagrees with the calculation or applicability of the fee may
8271 petition the commission for a hearing in accordance with Section
8272 49-17-35, Mississippi Code of 1972. Any hearing shall be in
8273 accordance with the provisions of Section 49-17-33, Mississippi
8274 Code of 1972.

8275 (e) Fees collected under this section shall not
8276 supplant or reduce in any way the general fund appropriation to
8277 the department.

8278 **SECTION 152.** Section 49-17-527, Mississippi Code of 1972, is
8279 brought forward as follows:

8280 49-17-527. It is unlawful to:

8281 (a) Fail or refuse to comply with any rule, regulation
8282 or order of the commission issued under Sections 49-17-501 through
8283 49-17-531;

8284 (b) Fail or refuse to establish, maintain, provide,
8285 copy, or permit access to records or reports as required by
8286 Sections 49-17-501 through 49-17-531 regulations adopted under
8287 Sections 49-17-501 through 49-17-531;



8288 (c) Fail or refuse to permit entry or inspection as
8289 required by Sections 49-17-501 through 49-17-531 or regulations
8290 adopted under Sections 49-17-501 through 49-17-531;

8291 (d) Obtain certification through fraudulent
8292 representation;

8293 (e) Fail to obtain certification from the commission or
8294 the United States Environmental Protection Agency and perform work
8295 requiring certification at a job site; or

8296 (f) Fraudulently obtain certification and engage in any
8297 lead-based paint activities requiring certification.

8298 **SECTION 153.** Section 49-17-529, Mississippi Code of 1972, is
8299 brought forward as follows:

8300 49-17-529. (1) Any person found by the commission to have
8301 violated Sections 49-17-501 through 49-17-531 or any rule or
8302 regulation or written order of the commission issued under
8303 Sections 49-17-501 through 49-17-531 or any certificate or
8304 accreditation issued under Sections 49-17-501 through 49-17-531
8305 shall be subject to a civil penalty of not more than Twenty-five
8306 Thousand Dollars (\$25,000.00) for each violation. The penalty may
8307 be assessed and levied by order of the commission after notice and
8308 hearing in accordance with subsection (5) of this section. In
8309 addition, the commission may issue a reprimand or a suspension or
8310 revocation of any certificate issued to the person under Sections
8311 49-17-501 through 49-17-531. The reprimand, suspension or
8312 revocation may be assessed and levied by order of the commission



8313 after notice and hearing as provided in subsection (5) of this
8314 section.

8315 (2) In lieu of, or in addition to, the penalty provided for
8316 in subsection (1) of this section, the commission may institute
8317 and maintain in the name of the state any proceedings necessary to
8318 enforce Sections 49-17-501 through 49-17-531, rules and
8319 regulations adopted under Sections 49-17-501 through 49-17-531,
8320 and orders and certificates issued under Sections 49-17-501
8321 through 49-17-531 in the appropriate circuit, chancery, county or
8322 justice court of the county in which venue may lie. The
8323 commission may obtain mandatory or prohibitory injunctive relief,
8324 either temporary or permanent, and it shall not be necessary in
8325 those cases that the state plead or prove: (a) that irreparable
8326 damage would result if the injunction did not issue; (b) that
8327 there is no adequate remedy at law; or (c) that a written
8328 complaint or commission order has first been issued for the
8329 alleged violation.

8330 (3) Any person who knowingly submits false or inaccurate
8331 information in support of an application for issuance or
8332 reissuance of an accreditation or a certificate under Sections
8333 49-17-501 through 49-17-531 or who willfully fails to comply with
8334 the conditions of the accreditation or the certificate issued by
8335 the commission or who willfully violates Sections 49-17-501
8336 through 49-17-531, or any rule, regulation or written order of the
8337 commission or emergency order issued by the director in pursuance



8338 thereof, upon conviction, shall be guilty of a misdemeanor and
8339 fined not less than One Hundred Dollars (\$100.00) within the
8340 discretion of the court. Each day in which that violation exists
8341 or continues shall constitute a separate offense.

8342 (4) In addition to or in lieu of filing a criminal complaint
8343 for the willful misconduct described in subsection (3) of this
8344 section, the commission may impose a civil penalty in accordance
8345 with subsection (1)(a) of this section, and shall impose a
8346 reprimand or a suspension or revocation of any certificate in
8347 accordance with subsection (1)(b) of this section.

8348 (5) All proceedings and hearings before the commission
8349 regarding violations of Sections 49-17-501 through 49-17-531 or
8350 any rule or regulation, written order of the commission, emergency
8351 order of the director or certificate issued or reissued by the
8352 commission in pursuance thereof or any certificate issued under
8353 Sections 49-17-501 through 49-17-531 and all appeals therefrom
8354 shall be conducted in accordance with Sections 49-17-31 through
8355 49-17-41, Mississippi Code of 1972.

8356 (6) All fines, penalties and other sums recovered or
8357 collected by the commission for and on behalf of the state under
8358 this section shall be deposited in the Pollution Emergency Fund
8359 established under Section 49-17-68, Mississippi Code of 1972.

8360 **SECTION 154.** Section 49-17-531, Mississippi Code of 1972, is
8361 brought forward as follows:



8362 49-17-531. The commission may establish requirements for
8363 reciprocity for accreditation and certification of risk assessors,
8364 project designers, supervisors, renovators, dust sampling
8365 technicians, inspectors and workers with other states that have
8366 established accreditation and certification programs that meet or
8367 exceed the requirements established by the commission for
8368 accreditation and certification in this state.

8369 **SECTION 155.** Section 49-17-601, Mississippi Code of 1972, is
8370 brought forward as follows:

8371 49-17-601. It is the intent of the Legislature to make
8372 unlawful the generation of wastes occurring in the illegal
8373 manufacture or attempted illegal manufacture of controlled
8374 substances through the mixing, combining, processing or cooking of
8375 listed precursor chemicals.

8376 **SECTION 156.** Section 49-17-603, Mississippi Code of 1972, is
8377 brought forward as follows:

8378 49-17-603. (1) The definitions used in this section are
8379 expressly limited to this section only, and the inclusion of
8380 indoor air in the definition of "waste" does not expand the
8381 jurisdiction of the Commission on Environmental Quality or the
8382 Department of Environmental Quality to include the regulation of
8383 indoor air:

8384 (a) "By-product" means a substance produced without a
8385 separate intent during the manufacture, processing, use or
8386 disposal of another substance or mixture; and



8387 (b) "Waste" means all liquid, gaseous, solid,
8388 radioactive or other substances that may pollute or tend to
8389 pollute any waters of the state or soil within the state, and any
8390 particulate matter, dust, fumes, gas, mist, smoke or vapor, or any
8391 combination thereof, that may pollute or tend to pollute air in
8392 the state, including indoor air.

8393 (2) The generation of waste in any quantity by any person
8394 caused by the mixing, combining, processing or cooking together of
8395 two (2) or more precursor drugs or chemicals listed in Section
8396 41-29-313 is unlawful unless:

8397 (a) The person has first obtained a generator
8398 identification number pursuant to the Resource Conservation and
8399 Recovery Act, 42 USCS Section 6901 et seq., and the regulations
8400 promulgated thereunder; or

8401 (b) The person has first obtained a treatment, storage
8402 or disposal permit pursuant to the Resource Conservation and
8403 Recovery Act, 42 USCS Section 6901 et seq., and the regulations
8404 promulgated thereunder; or

8405 (c) The process that generated the waste also, as part
8406 of the same process:

8407 (i) Created a product that is not illegal to
8408 possess pursuant to Section 41-29-139(c);

8409 (ii) Created a by-product that is not illegal to
8410 possess pursuant to Section 41-29-139(c), while not at the same
8411 time producing a controlled substance; or



8412 (iii) Was a process of servicing, maintaining or
8413 cleaning an item or product that is not illegal to possess
8414 pursuant to Section 41-29-139(c).

8415 (3) Any person who violates this section, upon conviction,
8416 is guilty of a felony and may be imprisoned for a period not to
8417 exceed thirty (30) years and shall be fined not less than Five
8418 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
8419 (\$1,000,000.00), or may be both fined and imprisoned.

8420 (4) Nothing in this section shall preclude any farmer or
8421 manufacturer from storing or using any of the listed precursor
8422 drugs or chemicals listed in Section 41-29-313 in the normal
8423 pursuit of farming or manufacturing operations.

8424 (5) Nothing in this section shall preclude any wholesaler,
8425 retailer or pharmacist from possessing or selling precursor drugs
8426 or chemicals listed in Section 41-29-313 in the normal pursuit of
8427 business.

8428 (6) Except as may be otherwise provided, a property owner or
8429 occupant of land shall not be criminally or civilly liable for the
8430 generation of waste caused by the criminal acts of persons other
8431 than the property owner or occupant of such land if the property
8432 owner or occupant did not have prior knowledge of the criminal
8433 activity.

8434 **SECTION 157.** Section 49-17-701, Mississippi Code of 1972, is
8435 brought forward as follows:



8436 49-17-701. Sections 49-17-701 through 49-17-775 shall be
8437 known and may be cited as the "Mississippi Gulf Coast Region
8438 Utility Act."

8439 **SECTION 158.** Section 49-17-703, Mississippi Code of 1972, is
8440 brought forward as follows:

8441 49-17-703. In the spirit of the report of the Governor's
8442 Commission on Recovery, Rebuilding and Renewal, the Legislature
8443 finds that there is a need for consolidation of water, wastewater
8444 and storm water services in order to reduce costs, promote
8445 resilience in the event of a disaster, improve the quality of the
8446 natural environment, and improve the planning and delivery of
8447 quality water, wastewater and storm water services within the
8448 areas of the Counties of George, Hancock, Harrison, Jackson, Pearl
8449 River and Stone. It is further declared that there is the need
8450 for the planning, acquisition, construction, maintenance,
8451 operation and coordination of water, wastewater and storm water
8452 services in order to ensure protection of the waters of the state
8453 and to ensure the delivery of water, wastewater and storm water
8454 services to citizens of the Gulf Coast Region. The creation of
8455 the Mississippi Gulf Coast Region Utility Act is determined to be
8456 necessary and essential to the accomplishment of these purposes.
8457 To facilitate the purposes of the act, the Gulf Coast Region
8458 Utility Board, the George County Utility Authority, the Hancock
8459 County Utility Authority, the Harrison County Utility Authority,
8460 the Jackson County Utility Authority, the Pearl River County



8461 Utility Authority and the Stone County Utility Authority are
8462 created herein.

8463 **SECTION 159.** Section 49-17-705, Mississippi Code of 1972, is
8464 brought forward as follows:

8465 49-17-705. Words and phrases used in this act shall have
8466 meanings as follows:

8467 (a) "Act" means the Mississippi Gulf Coast Region
8468 Utility Act.

8469 (b) "Bonds" mean interim notes having a maturity of
8470 three (3) years or less, revenue bonds and other certificates of
8471 indebtedness of the authority issued under the provisions of this
8472 act.

8473 (c) "County authority" means a county utility authority
8474 created in the Gulf Coast Region under this act.

8475 (d) "Fiscal year" means the period of time beginning on
8476 October 1 of each year and ending on September 30 of each year.

8477 (e) "Gulf Coast Region" means the areas encompassed by
8478 the Counties of George, Hancock, Harrison, Jackson, Pearl River
8479 and Stone.

8480 (f) "Municipality" means any incorporated city, town or
8481 village of the State of Mississippi, whether operating under
8482 general law or under special charter, lying wholly or partly
8483 within the Gulf Coast Region.

8484 (g) "Person" means the State of Mississippi, a county,
8485 a municipality, any public agency, or any other city, town,



8486 village or political subdivision or governmental agency,
8487 governmental instrumentality of the State of Mississippi or of the
8488 United States of America, or any private utility, individual,
8489 co-partnership, association, firm, trust, estate or any other
8490 entity whatsoever.

8491 (h) "Project" means the construction, development or
8492 acquisition by the county authority or county authorities of any
8493 infrastructure for water, wastewater and storm water systems or
8494 services and includes upgrading or repair of existing systems.

8495 (i) "Public agency" means any county, municipality,
8496 state board or commission owning or operating properties, district
8497 created pursuant to the general laws or local and private laws of
8498 the State of Mississippi, or other political subdivision of the
8499 State of Mississippi having the power to own and operate
8500 waterworks, water supply systems, sewerage systems, sewage
8501 treatment systems or other facilities or systems for the
8502 collection, transportation and treatment of water, wastewater and
8503 storm water.

8504 (j) "Storm water" means any flow occurring during or
8505 following any form of natural precipitation and resulting from
8506 that precipitation.

8507 (k) "System" or "systems" means any plants, structures,
8508 facilities and other real and personal property, used or useful in
8509 the generation, storage, transportation or supply of water, and
8510 the collection, transportation, treatment or disposal of



8511 wastewater and storm water, including, but not limited to, tanks,
8512 lakes, streams, ponds, pipes, trunk lines, mains, sewers,
8513 conduits, pipelines, pumping and ventilating stations, plants and
8514 works, connections and any other real and personal property and
8515 rights therein necessary, useful or convenient for the purposes of
8516 the utility board or authorities in connection therewith.

8517 (l) "Wastewater" means water being disposed of by any
8518 person and which is contaminated with waste or sewage, including
8519 industrial, municipal and any other wastewater that may cause
8520 impairment of the quality of the waters in the state.

8521 (m) "Water" means potable water, service water and
8522 groundwater.

8523 (n) "Utility board" means the Mississippi Gulf Coast
8524 Region Utility Board.

8525 **SECTION 160.** Section 49-17-707, Mississippi Code of 1972, is
8526 brought forward as follows:

8527 49-17-707. (1) There is hereby created and established a
8528 public body corporate and politic constituting a political
8529 subdivision of the State of Mississippi to be known as the
8530 "Mississippi Gulf Coast Region Utility Board" to serve the
8531 citizens of the Gulf Coast Region. The utility board is created
8532 as a forum for the Gulf Coast Region to collaborate and cooperate
8533 regarding water, wastewater and storm water issues; to assist in
8534 the efficient management of water, wastewater and storm water
8535 resources; to develop recommendations pertaining to water,



8536 wastewater and storm water systems; and to provide assistance,
8537 funding and guidance to the county authorities to assist in the
8538 identification of the best means to meet all present and future
8539 water, wastewater and storm water needs in the Gulf Coast Region.

8540 (2) This section shall repeal July 1, 2027.

8541 **SECTION 161.** Section 49-17-709, Mississippi Code of 1972, is
8542 brought forward as follows:

8543 49-17-709. (1) (a) All powers of the Mississippi Gulf
8544 Coast Region Utility Board shall be exercised by a board of
8545 directors to be composed of the following: (i) the president of
8546 each county authority; and (ii) three (3) at-large directors, to
8547 be appointed by the Governor, who shall be residents of the Gulf
8548 Coast Region.

8549 (b) The initial terms of the at-large directors shall
8550 be for two (2), four (4) and six (6) years as designated by the
8551 Governor. After the expiration of the initial terms, the
8552 subsequent terms shall be for a period of six (6) years. However,
8553 there shall be no more than one (1) at-large director appointed
8554 from any one (1) county. Each president may appoint a delegate,
8555 to represent him at a meeting of the board.

8556 (2) At the initial meeting of the board, the board shall
8557 elect a president and a vice president. Thereafter, the board
8558 will annually, at the last meeting of the fiscal year, elect a
8559 president and a vice president who shall serve in their respective
8560 offices for the next fiscal year. The directors shall serve



8561 without a salary but are entitled to receive per diem pay as
8562 provided for in Section 25-3-69, and for actual and necessary
8563 expenses incurred while in the performance of his duties as a
8564 member of the board as provided in Section 25-3-41.

8565 (3) Any utility board member who does not attend three (3)
8566 consecutive regular meetings of the authority shall be subject to
8567 removal by a majority vote of the board and shall be replaced with
8568 an appointment from the Governor or governing body making the
8569 initial appointment.

8570 (4) The president shall be the chief executive officer of
8571 the utility board and the presiding officer of the board, and
8572 shall have the same right to vote as any other director. The vice
8573 president shall act in the absence or disability of the president.
8574 Each director shall be required to give bond in the sum of not
8575 less than Fifty Thousand Dollars (\$50,000.00), with sureties
8576 qualified to do business in this state, and the premiums on the
8577 bond shall be an expense of the utility board. Each bond shall be
8578 payable to the State of Mississippi. The condition of each bond
8579 shall be that each director will faithfully perform all duties of
8580 his office and account for all monies or other assets which shall
8581 come into his custody as a director of the utility board.

8582 (5) A quorum for any meeting of the board of directors shall
8583 be the majority of the total membership of the board of directors.
8584 All business of the utility board shall be transacted by vote of
8585 the board of directors.



8586 (6) The utility board shall conduct regular meetings as set
8587 forth in its bylaws. The utility board shall establish rules and
8588 regulations regarding its meetings and may amend such bylaws,
8589 rules and regulations as may be necessary to conduct the business
8590 of the board.

8591 (7) This section shall repeal July 1, 2027.

8592 **SECTION 162.** Section 49-17-711, Mississippi Code of 1972, is
8593 brought forward as follows:

8594 49-17-711. (1) The utility board may hire an executive
8595 director and secretary-treasurer having the duties as determined
8596 by the utility board. The executive director must have a college
8597 degree. If hired, the executive director and secretary-treasurer
8598 each shall be required to give bond in a sum not less than Fifty
8599 Thousand Dollars (\$50,000.00), conditioned on the executive
8600 director and secretary-treasurer faithfully performing all duties
8601 of his office and account for all monies and other assets which
8602 come into his custody as executive director or secretary-treasurer
8603 of the utility board.

8604 (2) (a) The utility board shall prepare a budget consistent
8605 with its bylaws estimating its expenses and revenue needs for each
8606 forthcoming fiscal year at least ninety (90) days prior to the
8607 beginning of each fiscal year. The utility board shall submit its
8608 budget to each county authority prior to final approval by the
8609 utility board.



8610 (b) Any funds, gifts or grants allocated for the
8611 administrative costs related to the restoration or construction of
8612 water, wastewater and storm water services and projects in the
8613 Gulf Coast Region under this act shall, to the extent allowable,
8614 be paid into the Public Trust Tidelands Fund for the repayment of
8615 any tideland funds expended for the operational costs of the
8616 utility board.

8617 (3) The utility board shall have the authority to receive
8618 and spend funds from any source.

8619 (4) This section shall repeal July 1, 2027.

8620 **SECTION 163.** Section 49-17-713, Mississippi Code of 1972, is
8621 brought forward as follows:

8622 49-17-713. (1) The utility board shall have the right and
8623 powers necessary to carry out the purposes of this act, including,
8624 but not limited to:

8625 (a) Make recommendations to the county authorities
8626 pertaining to water, wastewater and storm water issues in the Gulf
8627 Coast Region;

8628 (b) Make recommendations necessary to achieve
8629 compatibility and uniformity of systems and technology related to
8630 water, wastewater and storm water in the Gulf Coast Region;

8631 (c) Help resolve cross-jurisdictional and multicounty
8632 disputes pertaining to water, wastewater and storm water issues
8633 between county authorities when requested by the county
8634 authorities;



8635 (d) Recommend short-term and long-term priorities for
8636 water, wastewater and storm water related projects;

8637 (e) Recommend emergency preparedness procedures in the
8638 Gulf Coast Region related to water, wastewater and storm water;

8639 (f) Recommend training standards related to operations
8640 of water, wastewater and storm water systems;

8641 (g) Sue and be sued in its own name and to enjoy all
8642 the protections, immunities and benefits provided by the
8643 Mississippi Tort Claims Act, as it may be amended from time to
8644 time;

8645 (h) Adopt an official seal and alter the same at
8646 pleasure;

8647 (i) Maintain office space at such place or places
8648 within the boundaries of the board as it may determine;

8649 (j) Own or lease real or personal property;

8650 (k) Invest money of the utility board, including
8651 proceeds from the sale of any bonds subject to any agreements with
8652 bond holders on such terms and in such manner as the utility board
8653 deems proper;

8654 (l) Apply for, accept and utilize grants, gifts and
8655 other funds from any source for any purpose necessary in support
8656 of the purpose of this act and to coordinate the distribution of
8657 funds to the county authorities;



8658 (m) Employ and terminate staff, including, but not
8659 limited to, attorneys, engineers and consultants as may be
8660 necessary;

8661 (n) Enter into contracts for all operation and
8662 maintenance needs of the utility board;

8663 (o) Enter into contracts to conduct studies of regional
8664 issues regarding water, wastewater and storm water services and to
8665 provide assistance, funds and guidance in the construction,
8666 operation and maintenance of regional water, wastewater and storm
8667 water services;

8668 (p) Enter into contracts with any person or any public
8669 agency in furtherance of any of the purposes authorized by this
8670 act upon such consideration as the board of directors and such
8671 person may agree. Any such contract may extend over any period of
8672 time, including a term which extends beyond the term of the then
8673 majority of the existing board members, notwithstanding any
8674 provision or rule of law to the contrary; may be upon such terms
8675 and for such consideration, nominal or otherwise, as the parties
8676 thereto shall agree; and may provide that it shall continue in
8677 effect until bonds specified therein, refunding bonds issued in
8678 lieu of such bonds, and all other obligations specified therein
8679 are paid or terminated. Any such contract shall be binding upon
8680 the parties thereto according to its terms. The utility board may
8681 also assume or continue any contractual or other business
8682 relationships entered into by the members of the utility board,



8683 including the rights to receive and acquire property transferred
8684 under option to purchase agreements;

8685 (q) Contract with the authorities under any terms
8686 mutually agreed by the parties to carry out any powers, duties or
8687 responsibilities granted by this act or any other laws to the
8688 authorities;

8689 (r) Acquire insurance for the utility board's systems,
8690 facilities, buildings, treatment plants and all property, real or
8691 personal, to insure against all risks as any insurance may, from
8692 time to time, be available;

8693 (s) Make, enforce, amend and repeal rules and
8694 regulations for the management of the utility board's business and
8695 affairs;

8696 (t) Enter onto public or private lands, waters or
8697 premises for the purposes of making surveys, borings or soundings,
8698 or conducting tests, examinations or inspections for the purposes
8699 of the utility board, subject to responsibility for any damage
8700 done to property entered;

8701 (u) Apply, contract for, accept, receive and administer
8702 gifts, grants, appropriations and donations of money, materials,
8703 and property of any kind, including loans and grants from the
8704 United States, the state, a unit of local government, or any
8705 agency, department, district or instrumentality of any of the
8706 foregoing, upon any terms and conditions as the United States, the



8707 state, a unit of local government, or any agency, department,
8708 district or instrumentality shall impose;

8709 (v) Create, maintain and regulate reservoirs and
8710 promulgate and enforce rules and regulations for the creation and
8711 maintenance of reservoirs; and

8712 (w) Make other recommendations to carry out the
8713 purposes of this act.

8714 (2) This section shall repeal July 1, 2027.

8715 **SECTION 164.** Section 49-17-717, Mississippi Code of 1972, is
8716 brought forward as follows:

8717 49-17-717. (1) If the authority is created, all powers of
8718 the George County Utility Authority shall be exercised by a board
8719 of directors comprised of five (5) directors appointed as follows:
8720 Within thirty (30) days of creation of the authority, the Board of
8721 Supervisors of George County shall appoint three (3) residents
8722 from the county, and the Board of Aldermen of the City of Lucedale
8723 shall appoint two (2) residents from the city. The directors
8724 shall serve at the will and pleasure of the governing body making
8725 the appointments. Any vacancy arising by expiration of a
8726 director's term, or a vacancy created by the removal of a director
8727 for any other reason, shall be filled by appointment made by the
8728 party originally responsible for the appointment of the director
8729 vacating his or her appointment.

8730 (2) All business of the George County Utility Authority
8731 shall be transacted as provided in Section 49-17-741, except that



8732 all actions affecting rates, bonds or capital improvements must be
8733 by unanimous vote of all members of the board.

8734 (3) In addition to any other powers and rights conferred
8735 upon such board of directors, the board is granted and may
8736 exercise all powers and rights granted pursuant to Sections
8737 49-17-739 through 49-17-773 to promote the health, welfare and
8738 prosperity of the general public.

8739 **SECTION 165.** Section 49-17-719, Mississippi Code of 1972, is
8740 brought forward as follows:

8741 49-17-719. There is hereby created and established a public
8742 body corporate and politic constituting a political subdivision of
8743 the State of Mississippi to be known as the "Pearl River County
8744 Utility Authority." The authority is composed of the geographic
8745 area of Pearl River County as defined in Section 19-1-109,
8746 Mississippi Code of 1972, for the planning, acquisition,
8747 construction, maintenance, operation and coordination of water,
8748 wastewater and storm water systems in order to ensure the delivery
8749 of water, wastewater and storm water services to citizens residing
8750 within the boundaries of Pearl River County. The Pearl River
8751 County Utility Authority shall be deemed to be acting in all
8752 respects for the benefit of the people of the state in the
8753 performance of essential public functions, and the Pearl River
8754 County Utility Authority shall be empowered in accordance with the
8755 provisions of this act to promote the health, welfare and
8756 prosperity of the general public.



8757 **SECTION 166.** Section 49-17-721, Mississippi Code of 1972, is
8758 brought forward as follows:

8759 49-17-721. (1) All powers of the Pearl River County Utility
8760 Authority shall be exercised by a board of directors comprised of
8761 seven (7) directors appointed as follows: Within thirty (30) days
8762 of April 18, 2006, the Board of Supervisors of Pearl River County
8763 shall appoint four (4) residents from the county, and the Board of
8764 Aldermen of the City of Picayune shall appoint two (2) residents
8765 from the city, and the Board of Aldermen of the City of
8766 Poplarville shall appoint one (1) resident from the city. The
8767 directors shall serve at the will and pleasure of the governing
8768 body making the appointments.

8769 (2) In addition to any other powers and rights conferred
8770 upon such board of directors, the board is granted and may
8771 exercise all powers and rights granted pursuant to Sections
8772 49-17-739 through 49-17-773 to promote the health, welfare and
8773 prosperity of the general public.

8774 **SECTION 167.** Section 49-17-723, Mississippi Code of 1972, is
8775 brought forward as follows:

8776 49-17-723. There is hereby created and established a public
8777 body corporate and politic constituting a political subdivision of
8778 the State of Mississippi to be known as the "Stone County Utility
8779 Authority." The authority is composed of the geographic area of
8780 Stone County as defined in Section 19-1-131, Mississippi Code of
8781 1972, for the planning, acquisition, construction, maintenance,



8782 operation and coordination of water, wastewater and storm water
8783 systems in order to ensure the delivery of water, wastewater and
8784 storm water services to citizens residing within the boundaries of
8785 Stone County. The Stone County Utility Authority shall be deemed
8786 to be acting in all respects for the benefit of the people of the
8787 state in the performance of essential public functions, and the
8788 Stone County Utility Authority shall be empowered in accordance
8789 with the provisions of this act to promote the health, welfare and
8790 prosperity of the general public.

8791 **SECTION 168.** Section 49-17-725, Mississippi Code of 1972, is
8792 brought forward as follows:

8793 49-17-725. (1) All powers of the Stone County Utility
8794 Authority shall be exercised by a board of directors comprised of
8795 five (5) directors appointed as follows: Within thirty (30) days
8796 of passage of this act, the Board of Supervisors of Stone County
8797 shall appoint three (3) residents from the county, and the Board
8798 of Aldermen of the City of Wiggins shall appoint two (2) residents
8799 from the city. The directors shall serve at the will and pleasure
8800 of the governing body making the appointments.

8801 (2) In addition to any other powers and rights conferred
8802 upon such board of directors, the board is granted and may
8803 exercise all powers and rights granted pursuant to Sections
8804 49-17-739 through 49-17-773 to promote the health, welfare and
8805 prosperity of the general public.



8806 **SECTION 169.** Section 49-17-727, Mississippi Code of 1972, is
8807 brought forward as follows:

8808 49-17-727. (1) There is hereby created and established a
8809 public body corporate and politic constituting a political
8810 subdivision of the State of Mississippi to be known as the
8811 "Harrison County Utility Authority." The authority is composed of
8812 the geographic area of Harrison County as defined in Section
8813 19-1-47, Mississippi Code of 1972, for the planning, acquisition,
8814 construction, maintenance, operation and coordination of water,
8815 wastewater, storm water and solid waste systems in order to ensure
8816 the delivery of water, wastewater, storm water and solid waste
8817 services to citizens residing within the boundaries of Harrison
8818 County.

8819 (2) Within thirty (30) days of April 18, 2006, the Harrison
8820 County Utility Authority and the Harrison County Wastewater and
8821 Solid Waste Management District shall consolidate into a single
8822 agency, to be known as the Harrison County Utility Authority,
8823 which shall be a continuance of the corporate existence of the
8824 Harrison County Wastewater and Solid Waste Management District.
8825 Such consolidation shall be effective by the concurrent resolution
8826 of the Harrison County Wastewater and Solid Waste Management
8827 District and the Harrison County Utility Authority and the filing
8828 of a copy of such concurrent resolution with the Secretary of
8829 State, certified by the Secretary of the Harrison County



8830 Wastewater and Solid Waste Management District and the Harrison
8831 County Utility Authority.

8832 (3) Upon consolidation, the following shall apply:

8833 (a) All property, rights and powers of the Harrison
8834 County Wastewater and Solid Waste Management District are hereby
8835 vested in and shall be exercised by the Harrison County Utility
8836 Authority, subject, however to all pledges, covenants, agreements
8837 and trusts made or created by the Harrison County Wastewater and
8838 Solid Waste Management District;

8839 (b) All debts, liabilities, obligations, agreements,
8840 contracts and covenants of the Harrison County Wastewater and
8841 Solid Waste Management District are hereby imposed upon the
8842 Harrison County Utility Authority. Any property of the Harrison
8843 County Wastewater and Solid Waste Management District in which a
8844 mortgage or security interest has been granted to any bondholders
8845 or other creditors of the Harrison County Wastewater and Solid
8846 Waste Management District shall continue to be subject to the
8847 mortgage or security interest until the mortgage or security
8848 interest is defeased or terminated in accordance with its terms.
8849 All bondholders and other creditors of the Harrison County
8850 Wastewater and Solid Waste Management District and persons having
8851 claims against or contracts with the Harrison County Wastewater
8852 and Solid Waste Management District of any kind or character may
8853 enforce those debts, claims and contracts against the Harrison
8854 County Utility Authority in the same manner as they might have



8855 against the Harrison County Wastewater and Solid Waste Management
8856 District, and the rights and remedies of those bondholders,
8857 creditors, and persons having claims or contracts shall not be
8858 limited or restricted in any manner by this act;

8859 (c) All regulations of the Harrison County Wastewater
8860 and Solid Waste Management District shall continue to be in effect
8861 as the regulations of the Harrison County Utility Authority until
8862 amended, supplemented or rescinded by the authority in accordance
8863 with law; and

8864 (d) All employees of the Harrison County Wastewater and
8865 Solid Waste Management District shall become employees of the
8866 Harrison County Utility Authority. Nothing in this act shall
8867 affect the civil service status, if any, of those employees or
8868 their rights, privileges, obligations or status with respect to
8869 any pension or retirement system.

8870 **SECTION 170.** Section 49-17-729, Mississippi Code of 1972, is
8871 brought forward as follows:

8872 49-17-729. (1) All powers of the Harrison County Utility
8873 Authority shall be exercised by a consolidated board consisting of
8874 the Board of Directors of the Harrison County Wastewater and Solid
8875 Waste Management District and the additional director provided
8876 under this section for a total of seven (7) directors. Upon
8877 consolidation, the Board of Supervisors of Harrison County shall
8878 appoint one (1) additional director who shall be a resident of the
8879 unincorporated area from the county. The director shall serve at



8880 the will and pleasure of the board of supervisors. The
8881 consolidated board shall consist of the mayor of each city
8882 participating in the authority and the directors appointed by the
8883 board of supervisors. Each director may appoint a delegate to
8884 represent him at a meeting of the board.

8885 (2) All business of the Harrison County Utility Authority
8886 shall be transacted as provided in Section 49-17-741, except that
8887 all actions affecting rates, bonds or capital improvements must be
8888 by unanimous vote of all members of the board.

8889 (3) In addition to any other powers and rights conferred
8890 upon such board of directors, the board is granted and may
8891 exercise all powers and rights granted pursuant to Sections
8892 49-17-739 through 49-17-773 to promote the health, welfare and
8893 prosperity of the general public, including the power and right to
8894 regulate and control solid waste within its jurisdictional
8895 boundaries.

8896 **SECTION 171.** Section 49-17-731, Mississippi Code of 1972, is
8897 brought forward as follows:

8898 49-17-731. (1) There is hereby created and established a
8899 public body corporate and politic constituting a political
8900 subdivision of the State of Mississippi to be known as the
8901 "Jackson County Utility Authority." The authority is composed of
8902 the geographic area of Jackson County as defined in Section
8903 19-1-59, Mississippi Code of 1972, for the planning, acquisition,
8904 construction, maintenance, operation and coordination of water and



8905 wastewater systems in order to ensure the delivery of water and
8906 wastewater services to citizens residing within the boundaries of
8907 Jackson County.

8908 (2) Within thirty (30) days of April 18, 2006, the Jackson
8909 County Utility Authority and the Mississippi Gulf Coast Regional
8910 Wastewater Authority shall consolidate into a single agency, to be
8911 known as the Jackson County Utility Authority, which shall be a
8912 continuance of the corporate existence of the Mississippi Gulf
8913 Coast Regional Wastewater Authority. Such consolidation shall be
8914 effective by the concurrent resolution of the Mississippi Gulf
8915 Coast Regional Wastewater Authority and the Jackson County Utility
8916 Authority and the filing of a copy of such concurrent resolution
8917 with the Secretary of State, certified by the Secretary of the
8918 Mississippi Gulf Coast Regional Wastewater Authority and the
8919 Jackson County Utility Authority.

8920 (3) Upon consolidation the following shall apply:

8921 (a) All property, rights and powers of the Mississippi
8922 Gulf Coast Regional Wastewater Authority are hereby vested in and
8923 shall be exercised by the Jackson County Utility Authority,
8924 subject, however to all pledges, covenants, agreements and trusts
8925 made or created by the Mississippi Gulf Coast Regional Wastewater
8926 Authority;

8927 (b) All debts, liabilities, obligations, agreements,
8928 contracts and covenants of the Mississippi Gulf Coast Regional
8929 Wastewater Authority are hereby imposed upon the Jackson County



8930 Utility Authority. Any property of the Mississippi Gulf Coast
8931 Regional Wastewater Authority in which a mortgage or security
8932 interest has been granted to any bondholders or other creditors of
8933 the Mississippi Gulf Coast Regional Wastewater Authority shall
8934 continue to be subject to the mortgage or security interest until
8935 the mortgage or security interest is defeased or terminated in
8936 accordance with its terms. All bondholders and other creditors of
8937 the Mississippi Gulf Coast Regional Wastewater Authority and
8938 persons having claims against or contracts with the Mississippi
8939 Gulf Coast Regional Wastewater Authority of any kind or character
8940 may enforce those debts, claims and contracts against the Jackson
8941 County Utility Authority in the same manner as they might have
8942 against the Mississippi Gulf Coast Regional Wastewater Authority,
8943 and the rights and remedies of those bondholders, creditors, and
8944 persons having claims or contracts shall not be limited or
8945 restricted in any manner by this act;

8946 (c) All regulations of the Mississippi Gulf Coast
8947 Regional Wastewater Authority shall continue to be in effect as
8948 the regulations of the Jackson County Utility Authority until
8949 amended, supplemented or rescinded by the Jackson County Utility
8950 Authority in accordance with law; and

8951 (d) All employees of the Mississippi Gulf Coast
8952 Regional Wastewater Authority shall become employees of the
8953 Jackson County Utility Authority. Nothing in this act shall
8954 affect the civil service status, if any, of those employees or



8955 their rights, privileges, obligations or status with respect to
8956 any pension or retirement system.

8957 **SECTION 172.** Section 49-17-733, Mississippi Code of 1972, is
8958 brought forward as follows:

8959 49-17-733. (1) Upon creation of the Jackson County Utility
8960 Authority, all powers of the Jackson County Utility Authority
8961 shall be exercised by the Board of Directors of the Mississippi
8962 Gulf Coast Regional Wastewater Authority.

8963 (2) Upon consolidation of the Jackson County Utility
8964 Authority and the Mississippi Gulf Coast Wastewater Authority, the
8965 county authority shall be governed by a board consisting of seven
8966 (7) directors.

8967 (a) The members of the Board of Directors of the
8968 Mississippi Gulf Coast Regional Wastewater Authority shall serve
8969 as Directors of the Jackson County Utility Authority until the
8970 expiration of their existing terms. Upon expiration of a member's
8971 term, the governing body making the appointment shall appoint a
8972 person residing within the corporate boundaries of the governing
8973 body to serve as a director.

8974 (b) The City of Gautier shall appoint one (1) director
8975 who resides within the City of Gautier for an initial term of
8976 three (3) years.

8977 (c) The Board of Supervisors of Jackson County shall
8978 appoint two (2) additional directors for an initial term of two



8979 (2) and four (4) years, respectively, who reside within the
8980 unincorporated area of Jackson County.

8981 (3) (a) After expiration of the initial terms, all
8982 appointed directors shall serve a term of six (6) years.

8983 (b) No director shall hold an elected public office.

8984 (4) In addition to any other powers and rights conferred
8985 upon such board of directors, the board is granted and may
8986 exercise all powers and rights granted pursuant to Sections
8987 49-17-739 through 49-17-773 to promote the health, welfare and
8988 prosperity of the general public.

8989 **SECTION 173.** Section 49-17-735, Mississippi Code of 1972, is
8990 brought forward as follows:

8991 49-17-735. (1) There is hereby created and established a
8992 public body corporate and politic constituting a political
8993 subdivision of the State of Mississippi to be known as the
8994 "Hancock County Utility Authority." The authority is composed of
8995 the geographic area of Hancock County as defined in Section
8996 19-1-59, Mississippi Code of 1972, for the planning, acquisition,
8997 construction, maintenance, operation and coordination of water,
8998 wastewater and storm water systems in order to ensure the delivery
8999 of water, wastewater and storm water services to citizens residing
9000 within the boundaries of Hancock County.

9001 (2) Within thirty (30) days of April 18, 2006, the Hancock
9002 County Utility Authority and the Southern Regional Wastewater
9003 Management District shall consolidate into a single agency, to be



9004 known as the Hancock County Utility Authority, which shall be a
9005 continuance of the corporate existence of the Southern Regional
9006 Wastewater Management District. Such consolidation shall be
9007 effective by the concurrent resolution of the Southern Regional
9008 Wastewater Management District and the Hancock County Utility
9009 Authority and the filing of a copy of such concurrent resolution
9010 with the Secretary of State, certified by the Secretary of the
9011 Southern Regional Wastewater Management District and the Hancock
9012 County Utility Authority.

9013 (3) Upon consolidation, the following shall apply:

9014 (a) All property, rights and powers of the Southern
9015 Regional Wastewater Management District are hereby vested in and
9016 shall be exercised by the Hancock County Utility Authority,
9017 subject, however to all pledges, covenants, agreements and trusts
9018 made or created by the Southern Regional Wastewater Management
9019 District;

9020 (b) All debts, liabilities, obligations, agreements,
9021 contracts and covenants of the Southern Regional Wastewater
9022 Management District are hereby imposed upon the Hancock County
9023 Utility Authority. Any property of the Southern Regional
9024 Wastewater Management District in which a mortgage or security
9025 interest has been granted to any bondholders or other creditors of
9026 the Southern Regional Wastewater Management District shall
9027 continue to be subject to the mortgage or security interest until
9028 the mortgage or security interest is defeased or terminated in



9029 accordance with its terms. All bondholders and other creditors of
9030 the Southern Regional Wastewater Management District and persons
9031 having claims against or contracts with the Southern Regional
9032 Wastewater Management District of any kind or character may
9033 enforce those debts, claims and contracts against the authority in
9034 the same manner as they might have against the Southern Regional
9035 Wastewater Management District, and the rights and remedies of
9036 those bondholders, creditors, and persons having claims or
9037 contracts shall not be limited or restricted in any manner by this
9038 act;

9039 (c) All regulations of the Southern Regional Wastewater
9040 Management District shall continue to be in effect as the
9041 regulations of the Hancock County Utility Authority until amended,
9042 supplemented or rescinded by the Hancock County Utility Authority
9043 in accordance with law; and

9044 (d) All employees of the Southern Regional Wastewater
9045 Management District shall become employees of the authority.
9046 Nothing in this act shall affect the civil service status, if any,
9047 of those employees or their rights, privileges, obligations or
9048 status with respect to any pension or retirement system.

9049 **SECTION 174.** Section 49-17-737, Mississippi Code of 1972, is
9050 brought forward as follows:

9051 49-17-737. (1) After consolidation, all powers of the
9052 Hancock County Utility Authority shall be exercised by a board
9053 consisting of the following:



9054 (a) One (1) director who is the Mayor of Bay St. Louis,
9055 or his or her designee, for an initial term of two (2) years;

9056 (b) One (1) director who is the Mayor of Waveland, or
9057 his or her designee, for an initial term of three (3) years;

9058 (c) One (1) director who is the President of the Board
9059 of Supervisors of Hancock County, or his or her designee, for an
9060 initial term of four (4) years;

9061 (d) One (1) director who is the Chairman of the Kiln
9062 Utility and Fire District;

9063 (e) One (1) director who is the Chairman of the Hancock
9064 County Water and Sewer District; and

9065 (f) One (1) director who is the Chairman of the
9066 Pearlinton Water and Sewer District.

9067 After expiration of the initial terms, the directors in
9068 paragraphs (a), (b) and (c) shall serve a term of four (4) years.

9069 (2) In addition to any other powers and rights conferred
9070 upon such board of directors, the board is granted and may
9071 exercise all powers and rights granted pursuant to Sections
9072 49-17-739 through 49-17-773 to promote the health, welfare and
9073 prosperity of the general public.

9074 (3) Any designee serving as a director shall serve at the
9075 will and pleasure of the governing authority that designated the
9076 director.

9077 (4) Any person who is designated by a mayor to be a director
9078 on the board of the Hancock County Utility Authority shall have



9079 the same voting powers on the board as the mayor who designated
9080 such person.

9081 **SECTION 175.** Section 49-17-739, Mississippi Code of 1972, is
9082 brought forward as follows:

9083 49-17-739. The purpose of Sections 49-17-739 through
9084 49-17-773 is to confer certain powers on the county authorities
9085 for the purpose of cooperating with federal, state and local
9086 public agencies for the further development of local and regional
9087 water, wastewater and storm water services within the Gulf Coast
9088 Region. In addition to the powers over water, wastewater and
9089 storm water, the Harrison County Utility Authority is granted
9090 power over solid waste within its jurisdiction.

9091 **SECTION 176.** Section 49-17-741, Mississippi Code of 1972, is
9092 brought forward as follows:

9093 49-17-741. (1) The board of directors of a county authority
9094 shall elect annually from its number a president and vice
9095 president of the county authority and such other officers as in
9096 the judgment of the board are necessary. The president shall be
9097 the chief executive officer of the authority and the presiding
9098 officer of the board, and shall have the same right to vote as any
9099 other director. The vice president shall act in the absence or
9100 disability of the president. Each board also shall appoint a
9101 secretary and a treasurer who may or may not be members of the
9102 board, and it may combine these offices. The treasurer shall give
9103 bond in the sum of not less than One Hundred Thousand Dollars



9104 (\$100,000.00) as set by the board of directors, and each director
9105 may be required to give bond in the sum of not less than
9106 Twenty-five Thousand Dollars (\$25,000.00), with sureties qualified
9107 to do business in this state, and the premiums on the bonds shall
9108 be an expense of the authority. Each bond shall be payable to the
9109 State of Mississippi, and the condition of each bond shall be that
9110 the treasurer and director will faithfully perform all duties of
9111 his office and account for all money and other assets which shall
9112 come into his custody as treasurer or director of the authority.

9113 (2) Each director of a county authority shall serve without
9114 salary, but shall be entitled to receive per diem pay, as provided
9115 for in Section 25-3-69, and shall be reimbursed his actual
9116 necessary expenses, as provided in Section 25-3-41, incurred while
9117 in the performance of his duties as a member of the board of
9118 directors of the authority upon authorization by the board.
9119 Expenses shall be paid from available funds of the authority.

9120 (3) All business of a county authority shall be transacted
9121 by a majority vote of the total membership of the board of
9122 directors. The quorum for any meeting of the board of directors
9123 shall be a majority of the total membership of the board of
9124 directors.

9125 **SECTION 177.** Section 49-17-743, Mississippi Code of 1972, is
9126 brought forward as follows:

9127 49-17-743. From and after April 18, 2006, each and every
9128 county authority shall have, in addition to any other powers



9129 granted under any other provision of law, including, but not
9130 limited to, the following:

9131 (a) To acquire, construct, improve, enlarge, extend,
9132 repair, operate and maintain one or more of its systems used for
9133 the collection, transportation, treatment and disposal of water,
9134 wastewater and storm water;

9135 (b) To make contracts with any person in furtherance
9136 thereof; and to make contracts with any person, under the terms of
9137 which the county authority will collect, transport, treat or
9138 dispose of water, wastewater and storm water for such person;

9139 (c) To make contracts with any person to design and
9140 construct any water, wastewater and storm water systems or
9141 facilities, and thereafter to purchase, lease or sell, by
9142 installments over such terms as may be deemed desirable,
9143 reasonable and necessary, or otherwise, any such system or
9144 systems;

9145 (d) To enter into operating agreements with any person,
9146 for such terms and upon such conditions as may be deemed
9147 desirable, for the operation of any water, wastewater and storm
9148 water systems; and the county authority may lease to or from any
9149 person, for such term and upon such conditions as may be deemed
9150 desirable, any water, wastewater and storm water collection,
9151 transportation, treatment or its other facilities or systems. Any
9152 such contract may contain provisions requiring any public agency
9153 or other person to regulate the quality and strength of materials



9154 to be handled by the respective system or systems and also may
9155 provide that the county authority shall have the right to use any
9156 streets, alleys and public ways and places within the jurisdiction
9157 of a public agency or other person during the term of the
9158 contract;

9159 (e) To enter into contracts with any person or any
9160 public agency, including, but not limited to, contracts authorized
9161 by this act, in furtherance of any of the purposes authorized
9162 under this act upon such consideration as the board of directors
9163 and such person may agree. Any such contract may extend over any
9164 period of time, notwithstanding any provision or rule of law to
9165 the contrary; may be upon such terms and for such consideration,
9166 nominal or otherwise, as the parties thereto shall agree; and may
9167 provide that it shall continue in effect until bonds specified
9168 therein, refunding bonds issued in lieu of such bonds, and all
9169 other obligations specified therein are paid or terminated. Any
9170 such contract shall be binding upon the parties thereto according
9171 to its terms;

9172 (f) To adopt an official seal and alter the same at
9173 pleasure;

9174 (g) To sue and be sued, in its own name, and to enjoy
9175 all of the protections, immunities and benefits provided by the
9176 Mississippi Tort Claims Act, as it may be amended or supplemented
9177 from time to time;



9178 (h) To maintain office space at such place or places
9179 within the county authority boundaries as it may determine;

9180 (i) To invest money of the county authority, including
9181 proceeds from the sale of any bonds subject to any agreements with
9182 bondholders, on such terms and in such manner as the county
9183 authority deems proper;

9184 (j) To require the necessary relocation or rerouting of
9185 roads and highways, railroad, telephone and telegraph lines, and
9186 properties, electric power lines, gas pipelines and related
9187 facilities, or to require the anchoring or other protection of any
9188 of these, provided fair compensation is first paid to the owners
9189 or an agreement with such owners regarding the payment of the cost
9190 of such relocation, and to acquire easements or rights-of-way for
9191 such relocation or rerouting and to convey the same to the owners
9192 of the property being relocated or rerouted in connection with the
9193 purposes of this act;

9194 (k) To acquire, construct, improve or modify, to
9195 operate or cause to be operated and maintained, either as owner of
9196 all or of any part in common with others, any water, wastewater or
9197 storm water system within the county authority's service area.
9198 The county authority may pay all or part of the cost of any system
9199 from any contribution by persons, firms, public agencies or
9200 corporations. The county authority may receive, accept and use
9201 all funds, public or private, and pay all costs of the



9202 development, implementation and maintenance as may be determined
9203 as necessary for any project;

9204 (l) To acquire, in its own name, by purchase on any
9205 terms and conditions and in any manner as it may deem proper,
9206 including by eminent domain, property for public use, or by gift,
9207 grant, lease, or otherwise, real property or easements therein,
9208 franchises and personal property necessary or convenient for its
9209 corporate purposes;

9210 (m) To acquire insurance for the county authority's
9211 systems, facilities, buildings, treatment plants and all property,
9212 real or personal, to insure against all risks as any insurance
9213 may, from time to time, be available;

9214 (n) To use any property and rent or lease any property
9215 to or from others, including public agencies, or make contracts
9216 for the use of the property. The county authority may sell,
9217 lease, exchange, transfer, assign, pledge, mortgage or grant a
9218 security interest for any property. The powers to acquire, use
9219 and dispose of property as set forth in this paragraph shall
9220 include the power to acquire, use and dispose of any interest in
9221 that property, whether divided or undivided. Title to any
9222 property of the county authority shall be held by the county
9223 authority exclusively for the benefit of the public;

9224 (o) To apply, contract for, accept, receive and
9225 administer gifts, grants, appropriations and donations of money,
9226 materials and property of any kind, including loans and grants



9227 from the United States, the state, a unit of local government, or
9228 any agency, department, district or instrumentality of any of the
9229 foregoing, upon any terms and conditions as the United States, the
9230 state, a unit of local government, or any agency, department,
9231 district or instrumentality shall impose. The county authority
9232 may administer trusts. The county authority may sell, lease,
9233 transfer, convey, appropriate and pledge any and all of its
9234 property and assets;

9235 (p) To make and enforce, and from time to time amend
9236 and repeal, bylaws, rules, ordinances and regulations for the
9237 management of its business and affairs and for the construction,
9238 use, maintenance and operation of any of the systems under its
9239 management and control;

9240 (q) To employ and terminate staff and other personnel,
9241 including attorneys, engineers and consultants as may be necessary
9242 to the functioning of the county authority. The board of
9243 directors, in its discretion, may employ an executive director
9244 having the authority to employ and fire employees and other duties
9245 as determined by the board;

9246 (r) To establish and maintain rates, fees and any other
9247 charges for services and the use of systems and facilities within
9248 the control of the county authority, and from time to time, to
9249 adjust such rates, fees and any other charges to the end that the
9250 revenues therefrom will be sufficient at all times to pay the
9251 expenses of operating and maintaining of the facilities and



9252 treatment systems and all of the persons' obligations under any
9253 contract or bonds resolution with respect thereto or any
9254 obligation of any person under any agreement, contract, indenture
9255 or bonds resolution with respect thereto. Such rates, fees,
9256 assessments and any other charges shall not be subject to the
9257 jurisdiction of the Mississippi Public Service Commission;

9258 (s) To adopt rules and regulations necessary to
9259 accomplish the purposes of the county authority and to assure the
9260 payment of each participating person or public agency of its
9261 proportionate share of the costs for use of any of the systems and
9262 facilities of the county authority and for the county authority's
9263 proportionate share of the costs of the utility board;

9264 (t) To enter on public or private lands, waters or
9265 premises for the purpose of making surveys, borings or soundings,
9266 or conducting tests, examinations or inspections for the purposes
9267 of the authority, subject to responsibility for any damage done to
9268 property entered;

9269 (u) To accept industrial wastewater from within the
9270 boundaries of the county authority for treatment and to require
9271 the pretreatment of same when, in the opinion of the county
9272 authority, such pretreatment is necessary;

9273 (v) To control and operate local retail water,
9274 wastewater and storm water services, and may provide or be
9275 responsible for direct servicing of those services to residences,
9276 businesses and individuals; however, the county authority shall



9277 not provide the same services in an area provided by a public
9278 utility or person holding a certificate of public convenience and
9279 necessity issued by the Mississippi Public Service Commission for
9280 the provision of such services in the certificated area. Any
9281 rates, fees, assessments or other charges shall not be under the
9282 control or regulation of the Mississippi Public Service
9283 Commission;

9284 (w) To assume control and administer, within the county
9285 authority's jurisdiction, any water, wastewater or storm water
9286 system or systems by agreement or contract with any person if the
9287 person providing such services requests to be relieved of that
9288 responsibility. However, the person may maintain control over
9289 connections in their service areas and may charge rates, fees and
9290 any other charges in addition to the rates, fees and any charges
9291 of the county authority;

9292 (x) The county authority shall have the power of
9293 eminent domain for the particular purpose of the acquisition of
9294 property designated by plan to sufficiently accommodate the
9295 location of water, wastewater or storm water systems and such
9296 requirements related directly thereto pursuant to the provisions
9297 of Chapter 27, Title 11, Mississippi Code of 1972. The county
9298 authority may acquire by eminent domain property necessary for any
9299 system and the exercise of the powers, rights and duties conferred
9300 upon the county authority by this act. No person owning the
9301 drilling rights or the right to share in production shall be



9302 prevented from exploring, developing or producing oil or gas with
9303 necessary rights-of-way for ingress and egress, pipelines and
9304 other means of transporting such interests on any lands or
9305 interest of the county authority held or used for the purposes of
9306 this act, but any such activities shall be subject to reasonable
9307 regulations by the board of directors that will adequately protect
9308 the systems or projects of the county authority;

9309 (y) To use any legally available funds to acquire,
9310 rebuild, operate and maintain any existing water, wastewater or
9311 storm water systems owned or operated by any person;

9312 (z) To refuse to receive water, wastewater or storm
9313 water from any public agency or person; and

9314 (aa) So long as any indebtedness on the systems of the
9315 county authority remains outstanding, to require by contract with
9316 a member public agency, or other person, that all water,
9317 wastewater and storm water within the boundaries of the respective
9318 county authority be disposed of through the appropriate treatment
9319 system to the extent that the same may be available, but no public
9320 agency shall be precluded from constructing, operating and
9321 maintaining its own such system after the current indebtedness
9322 owing on the system as of April 18, 2006, is paid in full.

9323 **SECTION 178.** Section 49-17-745, Mississippi Code of 1972, is
9324 brought forward as follows:

9325 49-17-745. (1) The county authority shall have the power,
9326 duty and responsibility to exercise general supervision over the



9327 design, construction, operation and maintenance of water,
9328 wastewater and storm water systems.

9329 (2) The county authority shall adopt rules and regulations
9330 regarding the design, construction or installation, operation and
9331 maintenance of water, wastewater and storm water systems.

9332 (3) The county authority shall adopt rules and regulations
9333 regarding the use of decentralized treatment systems, individual
9334 on-site wastewater treatment systems and centralized wastewater
9335 treatment systems.

9336 (4) The county authority shall adopt rules establishing
9337 performance standards for water, wastewater and storm water
9338 systems and the operation and maintenance of the same. Such rules
9339 and regulations shall include the implementation of a standard
9340 application form for the installation, operation and maintenance
9341 of such systems; application review; approval or denial procedures
9342 for any proposed system; inspection, monitoring and reporting
9343 guidelines; and enforcement procedures.

9344 (5) (a) Before a building or development which requires the
9345 installation of a water, wastewater or storm water system is
9346 constructed, the system must be submitted to the county authority
9347 for certification that the system complies with the county
9348 authority requirements for such system.

9349 (b) Before approving or renewing a water, wastewater or
9350 storm water related permit for a system within a county authority,



9351 the state agency must require certification that the system
9352 complies with the requirements of the county authority.

9353 (6) Any system of any municipality, public agency or other
9354 persons which contracts with a county authority, shall be subject
9355 to the terms of that contract and the terms of this act.

9356 (7) Notwithstanding the provisions of Section 51-39-1 et
9357 seq., the county authority shall have the full power to adopt
9358 rules and regulations and to construct, maintain and operate
9359 facilities for the control of storm water quality and quantity.
9360 In addition, the provisions of Section 51-33-1 et seq. relating to
9361 drainage districts and flood control districts do not apply to the
9362 county authority.

9363 (8) The county authority may control and operate the local
9364 retail water, wastewater or storm water services and may provide
9365 or be responsible for direct servicing of those services to
9366 residences, businesses and individuals; however, the county
9367 authority shall not provide the same service in an area provided
9368 by a public utility or person holding a certificate of public
9369 convenience and necessity issued by the Mississippi Public Service
9370 Commission for the provision of such services in the certificated
9371 area.

9372 **SECTION 179.** Section 49-17-747, Mississippi Code of 1972, is
9373 brought forward as follows:

9374 49-17-747. (1) Any public agency or person, pursuant to a
9375 duly adopted resolution of the governing body of such public



9376 agency or person, may enter into contracts with the county
9377 authority or county authorities under the terms of which the
9378 county authority will manage, operate and contract for usage of
9379 its systems and facilities, or other services, for such person or
9380 public agency.

9381 (2) Any public agency or person may enter into contracts
9382 with the county authority for the county authority to purchase or
9383 sell, by installments over such terms as may be deemed desirable,
9384 or otherwise, to any person or any systems. Any public agency may
9385 sell, donate, convey, or otherwise dispose of water, wastewater
9386 and storm water facilities or systems; or any equipment, personal
9387 property or any other things, deemed necessary for the
9388 construction, operation, and maintenance to the county authority
9389 without the necessity of appraisal, advertising, or bidding. This
9390 section creates an alternative method of disposal of public
9391 property.

9392 (3) Any public agency is authorized to enter into operating
9393 agreements with the county authority, for such terms and upon such
9394 conditions as may be deemed desirable, for the operation of any of
9395 its systems of any person by the county authority or by any person
9396 contracting with the county authority to operate such systems.

9397 (4) Any public agency may lease to or from the county
9398 authority, for such term and upon such conditions as may be deemed
9399 desirable, any of its systems.



9400 (5) Any municipality or county may donate office space,
9401 equipment, supplies and materials to the authority.

9402 (6) Any such contract may contain provisions requiring any
9403 public agency or other person to regulate the quality and strength
9404 of the material to be handled by the wastewater or storm water
9405 systems and may also provide that the county authority shall have
9406 the right to use any streets, alleys and public ways and places
9407 within the jurisdiction of a public agency or other person during
9408 the term of the contract. Such contracts may obligate the public
9409 agency to make payments to the county authority or to a trustee in
9410 amounts which shall be sufficient to enable the county authority
9411 to defray the expenses of administering, operating and maintaining
9412 its respective systems, to pay interest and principal (whether at
9413 maturity upon redemption or otherwise) on bonds of the county
9414 authority, issued under this act and to fund reserves for debt
9415 service, for operation and maintenance and for renewals and
9416 replacements, to fulfill the requirements of any rate covenant
9417 with respect to debt service coverage contained in any resolution,
9418 trust indenture or other security agreement relating to the bonds
9419 of the county authority issued under this act or to fulfill any
9420 other requirement relating to bonds issued pursuant to this act.

9421 (7) Any public agency shall have the power to enter into
9422 such contracts with the county authority as in the discretion of
9423 the governing body of the public agency would be in the best
9424 interest of the public agency. Such contracts may include a



9425 pledge of the full faith and credit of such public agency and/or
9426 the avails of any special assessments made by such public agency
9427 against property receiving benefits, as now or hereafter are
9428 provided by law. Any such contract may provide for the sale, or
9429 lease to, or use of by the county authority, of the systems or any
9430 part thereof, of the public agency; and may provide that the
9431 county authority shall operate its systems or any part thereof of
9432 the public agency; and may provide that any public agency shall
9433 have the right to continued use and/or priority use of the systems
9434 or any part thereof during the useful life thereof upon payment of
9435 reasonable charges therefor; and may contain provisions to assure
9436 equitable treatment of persons or public agencies who contract
9437 with the county authority under this act; and may contain such
9438 other provisions and requirements as the parties thereto may
9439 determine to be appropriate or necessary. Such contracts may
9440 extend over any period of time, notwithstanding any provisions of
9441 law to the contrary, and may extend beyond the life of the
9442 respective systems or any part thereof or the term of the bonds
9443 sold with respect to such facilities or improvements thereto.

9444 (8) The obligations of a public agency arising under the
9445 terms of any contract referred to in this act, whether or not
9446 payable solely from a pledge of revenues, shall not be included
9447 within the indebtedness limitations of the public agency for
9448 purposes of any constitutional or statutory limitation or
9449 provision. To the extent provided in such contract and to the



9450 extent such obligations of the public agency are payable wholly or
9451 in part from the revenues and other monies derived by the public
9452 agency from the operation of its systems or of its combined
9453 systems, or any part thereof, such obligations shall be treated as
9454 expenses of operating such systems.

9455 (9) Contracts referred to in this section may also provide
9456 for payments in the form of contributions to defray the cost of
9457 any purpose set forth in the contracts and as advances for the
9458 respective systems or any part thereof subject to repayment by the
9459 county authority. A public agency may make such contributions or
9460 advances from its general fund or surplus fund or from special
9461 assessments or from any monies legally available therefor.

9462 (10) Payments made, or to be made, to the county authority
9463 by a public agency or other person under a contract for any of its
9464 treatment systems, or any part thereof, shall not be subject to
9465 approval or review by the Mississippi Public Service Commission.

9466 (11) Subject to the terms of a contract or contracts
9467 referred to in this act, the county authority is hereby authorized
9468 to do and perform any and all acts or things necessary, convenient
9469 or desirable to carry out the purposes of such contracts,
9470 including the fixing, charging, collecting, maintaining and
9471 revising of rates, fees and other charges for the services
9472 rendered to any user of any of the systems operated or maintained
9473 by the county authority, whether or not such systems are owned by
9474 the county authority.



9475 (12) No provision of this act shall be construed to prohibit
9476 any public agency, otherwise permitted by law to issue bonds, from
9477 issuing bonds in the manner provided by law for the construction,
9478 renovation, repair or development of any of the county authority's
9479 systems, or any part thereof, owned or operated by such public
9480 agency.

9481 **SECTION 180.** Section 49-17-749, Mississippi Code of 1972, is
9482 brought forward as follows:

9483 49-17-749. Whenever a public agency shall have executed a
9484 contract under this act and the payments thereunder are to be made
9485 either wholly or partly from the revenues of the public agency's
9486 systems, or any part thereof, or a combination of such systems,
9487 the duty is hereby imposed on the public agency to establish and
9488 maintain and from time to time to adjust the rate or fees charged
9489 by the public agency for the services of such systems, so that the
9490 revenues therefrom, together with any taxes and special
9491 assessments levied in support thereof, will be sufficient at all
9492 times to pay:

9493 (a) The expense of operating and maintaining such
9494 systems, including all of the public agency's obligations to the
9495 county authority, its successors or assigns under such contract;
9496 and

9497 (b) All of the public agency's obligations under and in
9498 connection with bonds theretofore issued, or which may be issued
9499 thereafter and secured by the revenues of such systems. Any such



9500 contract may require the use of consulting engineers and financial
9501 experts to advise the public agency whether and when such rates
9502 and fees are to be adjusted.

9503 **SECTION 181.** Section 49-17-751, Mississippi Code of 1972, is
9504 brought forward as follows:

9505 49-17-751. (1) Notwithstanding the provisions of Sections
9506 77-3-21 and 77-3-23, Mississippi Code of 1972, the certificate of
9507 public convenience and necessity held by any municipality, public
9508 agency, district, public utility or other person authorized by law
9509 to provide water, sewer and wastewater services may be cancelled
9510 and its powers, duties and responsibilities transferred to the
9511 county authority in the manner provided by this section.

9512 (2) Any entity described in subsection (1) of this section
9513 desiring to have its certificate of public convenience and
9514 necessity cancelled and its powers, duties and responsibilities
9515 transferred to the county authority shall make a determination to
9516 that effect on its official minutes if a public entity, or by
9517 affidavit if not a public entity, and transmit such determination
9518 to the county authority.

9519 (3) Upon receipt of the document evidencing such
9520 determination from an entity to transfer its powers, duties and
9521 responsibilities to the county authority, the county authority
9522 shall, by resolution, declare whether it is willing and able to
9523 accept such transfer from the entity.



9524 (4) Upon completion of the requirements of subsections (2)
9525 and (3) herein and agreement by both parties to the transfer, the
9526 holder of the certificate of public convenience and necessity and
9527 the county authority shall jointly petition the Public Service
9528 Commission to cancel the certificate of public convenience and
9529 necessity. The petition must be accompanied by copies of the
9530 official minutes, affidavit or resolution, as the case may be,
9531 reflecting the actions of the petitioners. After review of the
9532 petition and any other evidence as the Public Service Commission
9533 deems necessary, the commission may issue an order cancelling the
9534 certificate and transferring to the county authority the powers,
9535 duties and responsibilities granted by the certificate, including
9536 all assets and debts of the transferor petitioner related to such
9537 certificated services, real or personal, or both, if it finds
9538 that:

9539 (a) Subsections (2) and (3) of this section have been
9540 complied with; and

9541 (b) Such action is in the public interest.

9542 (5) The county authority and providers of water, sewer,
9543 wastewater and storm water services that are not holders of a
9544 certificate of a public convenience and necessity from the Public
9545 Service Commission may enter into agreements for the provision of
9546 such services, including, but not limited to, the transfer to the
9547 county authority of such provider's powers, duties,
9548 responsibilities, assets and debts.



9549 **SECTION 182.** Section 49-17-753, Mississippi Code of 1972, is
9550 brought forward as follows:

9551 49-17-753. (1) Any system of a municipality, public agency
9552 or person that becomes subject to the jurisdiction of a county
9553 authority and this act shall not impair, invalidate or abrogate
9554 any liens, bonds or other certificates of indebtedness related to
9555 water, storm water or wastewater facilities and systems incurred
9556 prior to becoming subject to the jurisdiction of the county
9557 authority.

9558 (2) The county authority may do and perform any and all acts
9559 necessary, convenient or desirable to ensure the payment,
9560 redemption or satisfaction of such liens, bonds or other
9561 certificates of indebtedness.

9562 **SECTION 183.** Section 49-17-755, Mississippi Code of 1972, is
9563 brought forward as follows:

9564 49-17-755. (1) Sections 49-17-753 through 49-17-771 apply
9565 to all bonds to be issued after April 18, 2006, and such
9566 provisions shall not affect, limit or alter the rights and powers
9567 of any county authority under this act or any law of Mississippi
9568 to conduct the activities referred to herein in any way pertinent
9569 to the interests of the bondholders, including, without
9570 limitation, such county authority's right to charge and collect
9571 rates, fees and charges and to fulfill the terms of any covenants
9572 made with the registered owners of any existing bonds, or in any
9573 other way impair the rights and remedies of the registered owners



9574 of any existing bonds, unless provision for full payment of such
9575 bonds, by escrow or otherwise, has been made pursuant to the terms
9576 of the bonds or the resolution, trust indenture or security
9577 interest securing the bonds.

9578 (2) The county authority shall have the power and is hereby
9579 authorized, from time to time, to borrow money and to issue
9580 revenue bonds and interim notes in such principal amounts as the
9581 county authority may determine to be necessary to provide
9582 sufficient funds for achieving one or more of the purposes of this
9583 act, including, without limiting the generality of the foregoing,
9584 to defray all the costs of the project, the cost of the
9585 acquisition, construction, improvement, repair or extension of a
9586 system, or any part thereof, whether or not such facilities are
9587 owned by the county authority, the payment of interest on bonds of
9588 the county authority issued pursuant to this act, establishment of
9589 reserves to secure such bonds and payment of the interest thereon,
9590 expenses incident to the issuance of such bonds and to the
9591 implementation of the county authority's system, and all other
9592 expenditures of the county authority incident to or necessary or
9593 convenient to carry out the purposes of this act.

9594 (3) Before issuing bonds, other than interim notes or
9595 refunding bonds as provided in Section 49-17-757, the board of
9596 directors of the county authority shall adopt a resolution
9597 declaring its intention to issue such bonds and stating the
9598 maximum principal amount of bonds proposed to be issued, a general



9599 generic description of the proposed improvements and the proposed
9600 location thereof, and the date, time and place at which the board
9601 of directors proposes to take further action with respect to the
9602 issuance of such bonds. The resolution of the county authority
9603 shall be published once a week for at least three (3) consecutive
9604 weeks in at least one (1) newspaper having a general circulation
9605 within the geographical limits of all of the public agencies which
9606 have contracted with the county authority pursuant to this act.

9607 (4) Bonds of the county authority issued pursuant to this
9608 act shall be payable from and secured by a pledge of all or any
9609 part of the revenues under one or more contracts entered into
9610 pursuant to this act between the county authority and one or more
9611 of its contracting public agencies and from all or any part of the
9612 revenues derived from the operation of any designated system or
9613 any part or parts thereof and any other monies legally available
9614 and designated therefor, as may be determined by such county
9615 authority, subject only to any agreement with the purchasers of
9616 the bonds. Such bonds may be further secured by a trust indenture
9617 between such county authority and a corporate trustee, which may
9618 be any trust company or bank having powers of a trust company
9619 without or within the state.

9620 (5) Bonds of the county authority issued pursuant to this
9621 act shall be authorized by a resolution or resolutions adopted by
9622 a majority affirmative vote of the total membership of the board
9623 of directors of the county authority. Such bonds may be issued in



9624 series, and each series of such bonds shall bear such date or
9625 dates, mature at such time or times, bear interest at such rate or
9626 rates (not exceeding the maximum rate set out in Section
9627 75-17-103, Mississippi Code of 1972), be in such denomination or
9628 denominations, be in such form, carry such conversion privileges,
9629 have such rank or priority, be executed in such manner and by such
9630 officers, be payable from such sources in such medium of payment
9631 at such place or places within or without the state, provided that
9632 one such place shall be within the state, and be subject to such
9633 terms of redemption prior to maturity, all as may be provided by
9634 resolution or resolutions of the board of directors. The term of
9635 such bonds issued pursuant to this act shall not exceed forty (40)
9636 years.

9637 (6) Bonds of the county authority issued pursuant to this
9638 act may be sold at such price or prices, at public or private
9639 sale, in such manner and at such times as may be determined by
9640 such county authority to be in the public interest, and such
9641 county authority may pay all expenses, premiums, fees and
9642 commissions which it may deem necessary and advantageous in
9643 connection with the issuance and sale thereof.

9644 (7) Any pledge of earnings, revenues or other monies made by
9645 the county authority shall be valid and binding from the time the
9646 pledge is made. The earnings, revenues or other monies so pledged
9647 and thereafter received by such county authority shall immediately
9648 be subject to the lien of such pledge without any physical



9649 delivery thereof or further act, and the lien of any such pledge
9650 shall be valid and binding as against all parties having claims of
9651 any kind in tort, contract or otherwise against such county
9652 authority irrespective of whether such parties have notice
9653 thereof. Neither the resolution nor any other instrument by which
9654 a pledge is created need be recorded.

9655 (8) Neither the members of the board of directors nor any
9656 person executing the bonds shall be personally liable on the bonds
9657 or be subject to any personal liability or accountability by
9658 reason of the issuance thereof.

9659 (9) Proceeds from the sale of bonds of the county authority
9660 may be invested, pending their use, in such securities as may be
9661 specified in the resolution authorizing the issuance of the bonds
9662 or the trust indenture securing them, and the earnings on such
9663 investments applied as provided in such resolution or trust
9664 indenture.

9665 (10) Whenever any bonds shall have been signed by the
9666 officer(s) designated by the resolution of the board of directors
9667 to sign the bonds who were in office at the time of such signing
9668 but who may have ceased to be such officer(s) prior to the sale
9669 and delivery of such bonds, or who may not have been in office on
9670 the date such bonds may bear, the manual or facsimile signatures
9671 of such officer(s) upon such bonds shall nevertheless be valid and
9672 sufficient for all purposes and have the same effect as if the
9673 person so officially executing such bonds had remained in office



9674 until the delivery of the same to the purchaser or had been in
9675 office on the date such bonds may bear.

9676 (11) The county authority has the discretion to advance or
9677 borrow funds needed to satisfy any short-term cash flow demands or
9678 deficiencies or to cover start-up costs until such time as
9679 sufficient bonds, assets and revenues have been secured to satisfy
9680 the needs of the county authority.

9681 **SECTION 184.** Section 49-17-757, Mississippi Code of 1972, is
9682 brought forward as follows:

9683 49-17-757. (1) **Refunding bonds.** The county authority may,
9684 by resolution adopted by its board of directors, issue refunding
9685 bonds for the purpose of paying any of its bonds at or prior to
9686 maturity or upon acceleration or redemption. Refunding bonds may
9687 be issued at such time prior to the maturity or redemption of the
9688 refunded bonds as the board of directors deems to be in the public
9689 interest, without an election on the question of the issuance
9690 thereof. The refunding bonds may be issued in sufficient amounts
9691 to pay or provide the principal of the bonds being refunded,
9692 together with any redemption premium thereon, any interest accrued
9693 or to accrue to the date of payment of such bonds, the expenses of
9694 issue of the refunding bonds, the expenses of redeeming the bonds
9695 being refunded, and such reserves for debt service or other
9696 capital or current expenses from the proceeds of such refunding
9697 bonds as may be required by the resolution, trust indenture or
9698 other security instruments. The issue of refunding bonds, the



9699 maturities and other details thereof, the security therefor, the
9700 rights of the holders and the rights, duties and obligations of
9701 the county authority in respect of the same shall be governed by
9702 the provisions of this act relating to the issue of bonds other
9703 than refunding bonds insofar as the same may be applicable. Any
9704 such refunding may be effected, whether the obligations to be
9705 refunded shall have then matured or shall thereafter mature,
9706 either by the exchange of the refunding bonds for the obligations
9707 to be refunded thereby with the consent of the holders of the
9708 obligations so to be refunded, or by sale of the refunding bonds
9709 and the application of the proceeds thereof to the payment of the
9710 obligations proposed to be refunded thereby, and regardless of
9711 whether the obligations proposed to be refunded shall be payable
9712 on the same date or different dates or shall be due serially or
9713 otherwise.

9714 (2) **Interim notes.** Borrowing by the county authority may be
9715 made by the delivery of interim notes to any person or public
9716 agency or financial institution by a majority vote of the board of
9717 directors.

9718 **SECTION 185.** Section 49-17-759, Mississippi Code of 1972, is
9719 brought forward as follows:

9720 49-17-759. All bonds (other than refunding bonds, interim
9721 notes and certificates of indebtedness, which may be validated)
9722 issued pursuant to this act shall be validated as now provided by
9723 law in Sections 31-13-1 through 31-13-11, Mississippi Code of



9724 1972; however, notice of such validation proceedings shall be
9725 addressed to the citizens of the respective public agencies (a)
9726 which have contracted with the county authority pursuant to this
9727 act, and (b) whose contracts and the payments to be made by the
9728 public agencies thereunder constitute security for the bonds of
9729 such county authority proposed to be issued, and that such notice
9730 shall be published at least once in a newspaper or newspapers
9731 having a general circulation within the geographical boundaries of
9732 each of the contracting public agencies to whose citizens the
9733 notice is addressed. Such validation proceedings shall be
9734 instituted in any chancery courts within the boundaries of the
9735 county authority. The validity of the bonds so validated and of
9736 the contracts and payments to be made by the public agencies
9737 thereunder constituting security for the bonds shall be forever
9738 conclusive against the county authority and the public agencies
9739 which are parties to said contracts; and the validity of said
9740 bonds and said contracts and the payments to be made thereunder
9741 shall never be called in question in any court in this state.

9742 **SECTION 186.** Section 49-17-761, Mississippi Code of 1972, is
9743 brought forward as follows:

9744 49-17-761. Bonds issued under the provisions of this act
9745 shall not be deemed to constitute, within the meaning of any
9746 constitutional or statutory limitation, an indebtedness of the
9747 county authority. Such bonds shall be payable solely from the
9748 revenues or assets of the county authority pledged therefor. Each



9749 bond issued under this act shall contain on the face thereof a
9750 statement to the effect that such county authority shall not be
9751 obligated to pay the same nor the interest thereon except from the
9752 revenues or assets pledged therefor.

9753 **SECTION 187.** Section 49-17-763, Mississippi Code of 1972, is
9754 brought forward as follows:

9755 49-17-763. The county authority shall have power in
9756 connection with the issuance of its bonds pursuant to this act to:

9757 (a) Covenant as to the use of any or all of its
9758 property, real or personal;

9759 (b) Redeem the bonds, to covenant for their redemption
9760 and to provide the terms and conditions thereof;

9761 (c) Covenant to charge rates, fees and charges
9762 sufficient to meet operating and maintenance expenses, renewals
9763 and replacements, principal and debt service on bonds, creation
9764 and maintenance of any reserves required by a bonds resolution,
9765 trust indenture or other security instrument and to provide for
9766 any margins or coverages over and above debt service on the bonds
9767 deemed desirable for the marketability of the bonds;

9768 (d) Covenant and prescribe as to events of default and
9769 terms and conditions upon which any or all of its bonds shall
9770 become or may be declared due before maturity, as to the terms and
9771 conditions upon which such declaration and its consequences may be
9772 waived and as to the consequences of default and the remedies of
9773 the registered owners of the bonds;



9774 (e) Covenant as to the mortgage or pledge of or the
9775 grant of a security interest in any real or personal property and
9776 all or any part of the revenues from any designated system or any
9777 part thereof or any revenue-producing contract or contracts made
9778 by a county authority with any person to secure the payment of
9779 bonds, subject to such agreements with the registered owners of
9780 bonds as may then exist;

9781 (f) Covenant as to the custody, collection, securing,
9782 investment and payment of any revenues, assets, monies, funds or
9783 property with respect to which a county authority may have any
9784 rights or interest;

9785 (g) Covenant as to the purposes to which the proceeds
9786 from the sale of any bonds then or thereafter to be issued may be
9787 applied, and the pledge of such proceeds to secure the payment of
9788 the bonds;

9789 (h) Covenant as to the limitations on the issuance of
9790 any additional bonds, the terms upon which additional bonds may be
9791 issued and secured, and the refunding of outstanding bonds;

9792 (i) Covenant as to the rank or priority of any bonds
9793 with respect to any lien or security;

9794 (j) Covenant as to the procedure by which the terms of
9795 any contract with or for the benefit of the registered owners of
9796 bonds may be amended or abrogated, the amount of bonds the
9797 registered owners of which must consent thereto, and the manner in
9798 which such consent may be given;



9799 (k) Covenant as to the custody of any of its properties
9800 or investments, the safekeeping thereof, the insurance to be
9801 carried thereon, and the use and disposition of insurance
9802 proceeds;

9803 (l) Covenant as to the vesting in a trustee or
9804 trustees, within or outside the state, of such properties, rights,
9805 powers and duties in trust as such county authority may determine;

9806 (m) Covenant as to the appointing and providing for the
9807 duties and obligations of a paying agent or paying agents or other
9808 fiduciaries within or outside the state;

9809 (n) Make all other covenants and to do any and all such
9810 acts and things as may be necessary or convenient or desirable in
9811 order to secure its bonds, or in the absolute discretion of the
9812 county authority tend to make the bonds more marketable,
9813 notwithstanding that such covenants, acts or things may not be
9814 enumerated herein; it being the intention hereof to give any
9815 county authority power to do all things in the issuance of bonds
9816 and in the provisions for security thereof which are not
9817 inconsistent with the Constitution of the state; and

9818 (o) Execute all instruments necessary or convenient in
9819 the exercise of the powers herein granted or in the performance of
9820 covenants or duties, which may contain such covenants and
9821 provisions, as any purchaser of the bonds of the county authority
9822 may reasonably require.



9823 **SECTION 188.** Section 49-17-765, Mississippi Code of 1972, is
9824 brought forward as follows:

9825 49-17-765. The county authority may, in any authorizing
9826 resolution of the board of directors, trust indenture or other
9827 security instrument relating to its bonds issued pursuant to this
9828 act, provide for the appointment of a trustee who shall have such
9829 powers as are provided therein to represent the registered owners
9830 of any issue of bonds in the enforcement or protection of their
9831 rights under any such resolution, trust indenture or security
9832 instrument. The county authority may also provide in such
9833 resolution, trust indenture or other security instrument that the
9834 trustee, or in the event that the trustee so appointed shall fail
9835 or decline to so protect and enforce such registered owners'
9836 rights then such percentage of registered owners as shall be set
9837 forth in, and subject to the provisions of, such resolution, trust
9838 indenture or other security interest, may petition the court of
9839 proper jurisdiction for the appointment of a receiver of the
9840 county authority's systems, the revenues of which are pledged to
9841 the payment of the principal of and interest on the bonds of such
9842 registered owners. Such receiver may exercise any power as may be
9843 granted in any such resolution, trust indenture or security
9844 instrument to enter upon and take possession of, acquire,
9845 construct or reconstruct or operate and maintain such system, fix
9846 charges for services of the system and enforce collection thereof,
9847 and receive all revenues derived from such system or facilities



9848 and perform the public duties and carry out the contracts and
9849 obligations of such county authority in the same manner as such
9850 county authority itself might do, all under the direction of such
9851 court.

9852 **SECTION 189.** Section 49-17-767, Mississippi Code of 1972, is
9853 brought forward as follows:

9854 49-17-767. (1) The exercise of the powers granted by this
9855 act will be in all respects for the benefit of the people of the
9856 state, for their well-being and prosperity and for the improvement
9857 of their social and economic conditions, and the county authority
9858 shall not be required to pay any tax or assessment on any property
9859 owned by the county authority under the provisions of this act or
9860 upon the income therefrom; nor shall the county authority be
9861 required to pay any recording fee or transfer tax of any kind on
9862 account of instruments recorded by it or on its behalf.

9863 (2) Any bonds issued by the county authority under and
9864 pursuant to the provisions of this act, their transfer and the
9865 income therefrom shall at all times be free from taxation by the
9866 state or any local unit or political subdivision or other
9867 instrumentality of the state, excepting inheritance and gift
9868 taxes.

9869 **SECTION 190.** Section 49-17-769, Mississippi Code of 1972, is
9870 brought forward as follows:

9871 49-17-769. All bonds issued under the provisions of this act
9872 shall be legal investments for trustees, other fiduciaries,



9873 savings banks, trust companies and insurance companies organized
9874 under the laws of the State of Mississippi; and such bonds shall
9875 be legal securities which may be deposited with and shall be
9876 received by all public officers and bodies of the state and all
9877 municipalities and other political subdivisions thereof for the
9878 purpose of securing the deposit of public funds.

9879 **SECTION 191.** Section 49-17-771, Mississippi Code of 1972, is
9880 brought forward as follows:

9881 49-17-771. The state hereby covenants with the registered
9882 owners of any bonds of any county authority that so long as the
9883 bonds are outstanding and unpaid the state will not limit or alter
9884 the rights and powers of any county authority under this act to
9885 conduct the activities referred to herein in any way pertinent to
9886 the interests of the bondholders, including, without limitation,
9887 such county authority's right to charge and collect rates, fees,
9888 assessments and charges and to fulfill the terms of any covenants
9889 made with the registered owners of the bonds, or in any other way
9890 impair the rights and remedies of the registered owners of the
9891 bonds, unless provision for full payment of such bonds, by escrow
9892 or otherwise, has been made pursuant to the terms of the bonds or
9893 the resolution, trust indenture or security interest securing the
9894 bonds.

9895 **SECTION 192.** Section 49-17-773, Mississippi Code of 1972, is
9896 brought forward as follows:



9897 49-17-773. For the purposes of satisfying any temporary cash
9898 flow demands and deficiencies, and to maintain a working balance
9899 for the county authority, the county, municipalities or public
9900 agencies within the geographic boundaries of the county authority,
9901 or other persons, subject to their lawful authority to do so, are
9902 authorized to advance, at any time, such funds which, in its
9903 discretion, are necessary, or borrow such funds by issuance of
9904 notes, for initial capital contribution and to cover start-up
9905 costs until such times as sufficient bonds, assets and revenues
9906 have been secured to satisfy the needs of the county authority for
9907 its management, operation and formation. To this end, the county,
9908 municipality, public agency or person, subject to their lawful
9909 authority to do so, shall advance such funds, or borrow such funds
9910 by issuance of notes, under such terms and conditions as may be
9911 provided by resolution of the governing body, or other persons as
9912 defined in this act, subject to their lawful authority to do so,
9913 except that each such resolution shall state:

9914 (a) The need for the proceeds advanced or borrowed;

9915 (b) The amount to be advanced or the amount to be
9916 borrowed;

9917 (c) The maximum principal amount of any note issued,
9918 the interest rate or maximum interest rate to be incurred, and the
9919 maturity date of said note;

9920 (d) In addition, the governing body, or other persons
9921 as defined in this act, subject to their lawful authority to do



9922 so, may arrange for lines of credit with any bank, firm or person
9923 for the purpose of providing an additional source of repayment for
9924 notes issued pursuant to this section. Amounts drawn on a line of
9925 credit may be evidenced by negotiable or nonnegotiable notes or
9926 other evidences of indebtedness and contain such terms and
9927 conditions as the governing body, or other persons as defined in
9928 this act, subject to their lawful authority to do so, may
9929 authorize in the resolution approving the same;

9930 (e) The governing body of the county, municipalities or
9931 other persons as defined in this act, subject to their lawful
9932 authority to do so, may authorize the repayment of such advances,
9933 notes, lines of credit and other debt incurred under this section,
9934 along with all costs associated with the same, including, but not
9935 limited to, rating agency fees, printing costs, legal fees, bank
9936 or trust company fees, line of credit fees and other charges to be
9937 reimbursed by the county authority under such terms and conditions
9938 as are reasonable and are to be provided for by resolution of the
9939 governing body, or terms agreed upon with other persons as defined
9940 in this act, subject to their lawful authority to do so;

9941 (f) In addition, the governing body of the county,
9942 municipality or public agency may lease or donate office space and
9943 equipment to the county authority under such terms and conditions
9944 as are reasonable and are to be provided for by resolution of the
9945 governing body, or terms agreed upon by the county authority.



9946 **SECTION 193.** Section 49-17-775, Mississippi Code of 1972, is
9947 brought forward as follows:

9948 49-17-775. If any clause, sentence, paragraph, section or
9949 part of the provisions of this act shall be adjudged by any court
9950 of competent jurisdiction to be invalid, such judgment shall not
9951 affect, impair or invalidate the remainder thereof directly
9952 involved in the controversy in which such judgment shall have been
9953 rendered.

9954 **SECTION 194.** Section 49-27-71, Mississippi Code of 1972, is
9955 brought forward as follows:

9956 49-27-71. (1) **Definitions.** As used in the section, the
9957 following words and phrases have the following meanings unless the
9958 context clearly indicates otherwise:

9959 (a) "Abandoned vessel" means a vessel left unattended
9960 for four (4) or more weeks after a hurricane, tropical storm or
9961 other natural event resulting in a declaration of emergency by the
9962 Governor, or, in the absence of a hurricane, tropical storm or
9963 other natural event resulting in a declaration of emergency by the
9964 Governor, any of the following:

9965 (i) A vessel left unattended that is moored,
9966 anchored, or otherwise in the waters of the state or on public
9967 property for a period of more than ten (10) days.

9968 (ii) A vessel that is moored, anchored, or
9969 otherwise on or attached to private property for a period of more



9970 than ten (10) days without the consent of the owner or lessee of
9971 the property or of the public trust tidelands.

9972 Upon notification from the owner of the vessel outlining the
9973 circumstances following a hurricane, tropical storm or other
9974 natural event, the department may grant an exception to the time
9975 frames indicated above.

9976 (b) "Department" means the Mississippi Department of
9977 Marine Resources.

9978 (c) "Derelict vessel" means a vessel in the waters of
9979 the State of Mississippi that satisfies any of the following:

9980 (i) Is aground without the ability to extricate
9981 itself absent mechanical assistance;

9982 (ii) Is sunk or otherwise resting on the bottom of
9983 the waterway;

9984 (iii) Is abandoned;

9985 (iv) Is wrecked, junked, or in a substantially
9986 dismantled condition upon any waters of this state:

9987 1. A vessel is "wrecked" if it is sunken or
9988 sinking; or remaining after a marine casualty, including, but not
9989 limited to, a boating accident, extreme weather, or fire.

9990 2. A vessel is "junked" if it has been
9991 substantially stripped of vessel components, if vessel components
9992 have substantially degraded or been destroyed, or if the vessel
9993 has been discarded by the owner or operator. Attaching an
9994 outboard motor to a vessel that is otherwise junked will not cause



9995 the vessel to no longer be junked if such motor is not an
9996 effective means of propulsion.

9997 3. A vessel is "substantially dismantled" if
9998 at least two (2) of the three (3) following vessel systems or
9999 components are missing, compromised, incomplete, inoperable, or
10000 broken:

10001 (A) The steering system;

10002 (B) The propulsion system; or

10003 (C) The exterior hull integrity.

10004 Attaching an outboard motor to a vessel that is otherwise
10005 substantially dismantled will not cause the vessel to no longer be
10006 substantially dismantled if such motor is not an effective means
10007 of propulsion;

10008 (v) Docked, grounded, or beached upon the property
10009 of another without the consent of the owner of the property;

10010 (vi) Is obstructing a waterway or within one
10011 hundred (100) yards of the boundaries of any state, county or
10012 municipal port;

10013 (vii) Is endangering life or property;

10014 (viii) Has broken loose or is in danger of
10015 breaking loose from its anchor, mooring, or ties; or

10016 (iv) A vessel that is otherwise not seaworthy.

10017 (d) "Documented vessel" means a vessel documented under
10018 46 USC, Chapter 121.



10019 (e) "Effective means of propulsion" means a vessel,
10020 other than a barge, that is equipped with:

10021 (i) A functioning motor, controls, and steering
10022 system; or

10023 (ii) Rigging and sails that are present and in
10024 good working order, and a functioning steering system.

10025 A vessel does not have an effective means of propulsion for
10026 safe navigation within seventy-two (72) hours after the vessel
10027 owner or operator received telephonic notice, in-person notice
10028 recorded on an agency-approved body camera, or written notice,
10029 which may be provided by facsimile, electronic mail, or other
10030 electronic means, stating such from a representative of the
10031 department, and the vessel owner or operator is unable to provide
10032 a receipt, proof of purchase, or other documentation of having
10033 ordered necessary parts for vessel repair. The department may
10034 adopt regulations to implement this paragraph.

10035 (f) "Floating building or structure" means a floating
10036 entity, with or without accommodations built thereon, which is not
10037 primarily used as a means of transportation on water but which
10038 serves purposes or provides services typically associated with a
10039 structure or other improvement to real property. The term
10040 includes, but is not limited to, an entity used as a residence,
10041 place of business or office with public access; a hotel or motel;
10042 a restaurant or lounge; a clubhouse; a meeting facility; a storage
10043 or parking facility; or a mining platform, dredge, dragline, or



10044 similar facility or entity represented as such. Incidental
10045 movement upon water or resting partially or entirely on the bottom
10046 does not, in and of itself, preclude an entity from classification
10047 as a floating structure.

10048 (g) "Gross negligence" means conduct so reckless or
10049 wanting in care that it constitutes a conscious disregard or
10050 indifference to the safety of the property to such conduct.

10051 (h) "Moored" means a vessel that is anchored or affixed
10052 in some other way to the public trust tidelands, to leased
10053 tidelands, to private land, or within the riparian zone of a
10054 private or public landowner or leaseholder.

10055 (i) "Registered" means a vessel documented under
10056 Section 59-21-5.

10057 (j) "Unseaworthy" means a vessel that is not fit or
10058 safe for any normal perils of the sea or has no effective means of
10059 propulsion.

10060 (k) "Vessel" means every description of watercraft,
10061 other than a seaplane, capable of being used as a means of
10062 transportation on the water. For the purposes of this section,
10063 vessels powered only by hand, foot, oars or paddles, are included.

10064 For the purposes of this section, floatable buildings and
10065 structures, whether or not they are used for navigation, are
10066 included.

10067 (l) "Waters of the state" means any waters located
10068 within Harrison, Hancock and Jackson Counties under the



10069 jurisdiction of the Mississippi Department of Marine Resources as
10070 established pursuant to Section 49-15-23.

10071 (m) "Willful misconduct" means conduct evidencing
10072 carelessness or negligence of such a degree or recurrence as to
10073 manifest culpability, wrongful intent, or evil design or to show
10074 an intentional and substantial disregard of the interests of the
10075 vessel owner.

10076 (2) **Jurisdiction.** (a) (i) In the waters of Harrison,
10077 Hancock and Jackson Counties, a person, firm, corporation or other
10078 entity may not leave derelict or at risk of being derelict, any
10079 vessel on the coastal wetlands, marine waters, or on public or
10080 privately owned lands without the owner's permission.

10081 (ii) The Department of Marine Resources has the
10082 authority to remove derelict vessels, whether located on private
10083 or public property.

10084 (iii) Vessels located in ports and harbors are
10085 subject to the provisions outlined in Title 50, Mississippi Code
10086 of 1972, Ports, Harbors, Landings and Watercraft.

10087 (iv) Subparagraph (i) of this paragraph (a) does
10088 not apply to vessels located in marinas, garages or repair shops
10089 for repairs, improvements or other work with knowledge of the
10090 owner and for which the costs for such services have been unpaid.

10091 (v) Vessels deemed to be derelict pursuant to this
10092 chapter are exempt from the salvage provisions in Section 89-17-1
10093 et seq.



10094 (b) (i) In all other waters of the State of
10095 Mississippi, a person, firm, corporation or other entity may not
10096 leave derelict or at risk of being derelict, any vessel in the
10097 wetlands, public waters or waterways or on public or privately
10098 owned lands without the owner's permission.

10099 (ii) Subparagraph (i) of this paragraph (b) does
10100 not apply to vessels located in public or private marinas, garages
10101 or repair shops for repairs, improvements or other work with
10102 knowledge of the owner and for which the costs for such services
10103 have been unpaid.

10104 (iii) Vessels deemed to be derelict pursuant to
10105 this chapter are exempt from the salvage provisions of Section
10106 89-17-1 et seq.

10107 (3) **Penalties.** Violations of this section will be subject
10108 to the penalties as provided in Section 49-15-63.

10109 (4) **Standing.** A party with standing may initiate the
10110 derelict vessel procedures in this section. For purpose of this
10111 section, the following parties have standing:

10112 (a) The owner of the property where the vessel came to
10113 rest or to which the vessel was made fast;

10114 (b) Any harbormaster, police department, municipality
10115 or agent of the state that agrees to accept or process a derelict
10116 vessel; or

10117 (c) Any professional marine salvager when the salvager
10118 is engaged by a person with standing.



10119 (5) **Landowner permission may be revoked at any time.** The
10120 landowner must provide the department sufficient proof that the
10121 vessel owner has been notified of the revocation of landowner's
10122 permission or proof that the landowner cannot locate the owner of
10123 the vessel.

10124 When a vessel that is not otherwise leased to another party
10125 is moored upon public trust tidelands for a period of thirty (30)
10126 days or longer, permission must be granted by the Secretary of
10127 State's Office.

10128 (6) **Notice.** Any party with standing, or his or her
10129 representative, may initiate the notice process by filing an
10130 application with the department to remove the derelict vessel.
10131 Upon receipt and review of the application, the department may
10132 initiate the following notice process:

10133 (a) A department officer is authorized to board any
10134 vessel that has been reported to the department as being derelict
10135 or at risk of being derelict to determine the condition of the
10136 vessel and in an attempt to establish ownership of the vessel.

10137 (b) A department officer shall post notice, which must
10138 comply with the following requirements:

10139 (i) Be posted on the vessel in a prominent
10140 location, visible to an approaching person;

10141 (ii) Require the vessel owner to submit a plan for
10142 removal to the department within seven (7) days of the notice; and



10143 (iii) Include a space for the owner of the vessel
10144 to respond.

10145 (c) If the registered owner responds with a signature
10146 in the space or otherwise provides a written response to the
10147 department requesting an extension of time, then the registered
10148 owner will have an additional five (5) days to submit the plan for
10149 removal.

10150 (d) The department will notify the respondent of the
10151 approval or denial of the removal plan within seven (7) business
10152 days.

10153 (e) If the respondent fails to comply with the approved
10154 removal plan and fails to submit a satisfactory reason as to why
10155 the vessel cannot be moved as planned, the department may present
10156 the removal plan and evidence of the owner's noncompliance to the
10157 chancery court.

10158 (f) Upon presentation of the required evidence, the
10159 chancery court will issue an order allowing the department or its
10160 representative to remove the vessel from its current location and
10161 make whatever disposition is deemed appropriate, including, but
10162 not limited to, immediate disposal, storage pending disposal, use
10163 for official purposes, transfer to another state agency or other
10164 disposition.

10165 (g) If the vessel is located in an area of coastal
10166 wetlands where emergent vegetation is present or where the vessel



10167 is embedded in the ground, a wetlands permit may be required prior
10168 to removal.

10169 (h) Any party who acts in good faith and without
10170 malicious intent in the processing, storing or moving any derelict
10171 vessel pursuant to this section is immune from liability for
10172 damages to the vessel.

10173 (7) **Determining ownership.** (a) Upon receipt of an
10174 application for the removal of a derelict vessel where no removal
10175 plan has been submitted by the owner, the department must attempt
10176 to contact the registered owner of the vessel and any lien holders
10177 of record by other available means.

10178 (b) The department must inquire of the Mississippi
10179 Department of Wildlife, Fisheries and Parks (MDWFP) as to the
10180 status of the vessel in regard to the Mississippi Boating Law of
10181 1960, Section 59-21-1 et seq., or the United States Coast Guard as
10182 to the status of the vessel in regard to documentation under 46
10183 USC, Chapter 121.

10184 (c) The inquiry must provide the description of the
10185 vessel, including the vessel registration number.

10186 (d) The MDWFP is required to provide the requested
10187 information to the department within two (2) business days.

10188 (e) The registered owner of a vessel must comply with
10189 Section 59-21-21 to change ownership. In the event a vessel owner
10190 fails to notify the MDWFP of a transfer of ownership and supply
10191 the new owner's contact information, the owner of the vessel



10192 according to MDWFP records is presumed to be the person to whom
10193 the vessel is registered.

10194 (f) If there is no registered owner found, the
10195 department must make publication on the department's website and
10196 in a newspaper with general circulation for three (3) weeks,
10197 describing the vessel and the location.

10198 (8) **Derelict vessel removal.** (a) After the initial notice
10199 period described in subsection (6) has lapsed and the department
10200 can show proof of inquiries to ascertain the vessel ownership
10201 under subsection (7) of this section, the department may obtain an
10202 order from the chancery court for the derelict vessel to be
10203 removed from its current location.

10204 (b) The chancery court order may authorize the
10205 department to make whatever disposition is deemed appropriate,
10206 including, but not limited to, immediate disposal of the vessel,
10207 storage pending disposal, use for official purposes, transfer to
10208 another state agency or other disposition.

10209 (c) If the vessel is located in an area of coastal
10210 wetlands where emergent vegetation is present or where the vessel
10211 is embedded in the ground, a wetlands permit may be required prior
10212 to removal.

10213 (d) Any person who acts in good faith and without
10214 malicious intent in the processing, storing or moving of any
10215 derelict vessel pursuant to this section is immune from civil
10216 liability for damage to the vessel.



10217 (9) **Emergency removal.** Any derelict vessel that is
10218 obstructing a waterway, is within any designated navigation
10219 channel or within one hundred (100) yards of the boundaries of any
10220 state, county or municipal port may be declared a hazard to
10221 navigation and subject to immediate relocation, removal disposal,
10222 or other disposition by the department or other party with
10223 standing.

10224 (a) Any derelict vessel that is leaking any hazardous
10225 substances, chemicals or fuels will be reported to the Mississippi
10226 Department of Environmental Quality (MDEQ) and may be declared an
10227 environmental hazard and subject to immediate relocation, removal,
10228 disposal or other disposition by MDEQ, the department or other
10229 party with standing.

10230 (b) The registered owner of a vessel removed in
10231 accordance with this subsection (9) is liable for the costs
10232 associated with the relocation, removal, salvage, storage or
10233 disposal of the vessel and any damages to the flora and fauna
10234 within the affected area.

10235 (c) Any funds derived from salvage or sale of a vessel
10236 pursuant to this section will be used to offset the costs to the
10237 department associated with the removal, salvage, storage or
10238 disposal of the vessel.

10239 (d) Any funds derived from damages to the flora and
10240 fauna will be deposited into the Coastal Resource Management Fund
10241 if the Department of Marine Resources initiates the action.



10242 (e) Any party who relocates or removes a vessel under
10243 this section is not liable for damages resulting from relocation
10244 or removal unless the damage results from gross negligence or
10245 willful misconduct.

10246 (10) **Cost recovery.** (a) The department may seek full cost
10247 recovery from the registered owner of the derelict vessel for any
10248 expense incurred as a result of, or incidental to, removing the
10249 vessel. The registered owner of the vessel is liable for the
10250 costs of removal, storage, disposal, and restoration of affected
10251 lands, attorneys' fees, and all court costs.

10252 (b) The owner of the vessel is also liable for an
10253 administrative penalty of Five Hundred Dollars (\$500.00) per day.
10254 The penalty for emergency removal of vessels under subsection (9)
10255 of this section may be imposed by the Executive Director of the
10256 Department of Marine Resources upon the recommendation of the
10257 Advisory Commission on Marine Resources, under Section 49-15-401
10258 et seq. The fines for removal of all other vessels may be imposed
10259 by the chancery court.

10260 (c) Expenses incurred, including, but not limited to,
10261 fines, court costs, vessel removal, storage, disposal, restoration
10262 of affected lands, and attorneys' fees for derelict vessels will
10263 be imposed by the chancery court as outlined in subsection (11) of
10264 this section.

10265 (d) If the registered owner should fail to pay fines
10266 imposed by the department in accordance with paragraph (b) of this



10267 subsection, an enforcement action will be filed with the chancery
10268 court which may result in the court issuing an order, including,
10269 but not limited to, the collection of fines, court costs, and/or
10270 any legal avenue the court finds appropriate to collect such
10271 funds.

10272 (e) All proceeds from any activity initiated by the
10273 Department of Marine Resources related to the disposition of a
10274 vessel under this chapter will go into the Derelict Vessel Fund, a
10275 special fund within the Seafood Fund. However, any fines imposed
10276 for the damage to coastal wetlands will be placed in the Coastal
10277 Resource Management Fund.

10278 (11) **Court process.** (a) The chancery court of the county
10279 in which the vessel is located has jurisdiction over all matters
10280 concerning derelict vessels under this section, including
10281 injunctions and demands for damages. If the vessel is allowed to
10282 float and/or is otherwise moved to another county after notice has
10283 been provided under subsection (6) of this section, the county in
10284 which the vessel was first provided notice shall have continuing
10285 jurisdiction.

10286 (b) If there is no response to the publication attempts
10287 under subsection (7)(e) of this section, the chancery court will
10288 issue an order to the department allowing the department to take
10289 possession of the vessel and make such use or disposition of the
10290 vessel as deemed appropriate under the circumstances. If the
10291 department determines that the vessel may be used for official



10292 purposes or otherwise sold, the MDWFP will issue a vessel
10293 registration number or a hull identification number to the
10294 department after proof of publication has been submitted.

10295 (c) The chancery court may, in its discretion, order
10296 damages up to Five Hundred Dollars (\$500.00) per day for every day
10297 the vessel was left abandoned or derelict, beginning on the day
10298 notice was posted on the vessel.

10299 (d) If the department or a party with standing desires
10300 to require the registered owner to remove the vessel, then he or
10301 she may apply to the chancery court for a writ of mandatory
10302 injunction ordering the registered owner to remove the vessel.
10303 The chancery court must allow a reasonable time for removal and
10304 restoration of the affected lands. The chancery court may order
10305 further damages not to exceed Five Hundred Dollars (\$500.00) per
10306 day for each day that the violation exists beyond the date set by
10307 the court in an injunction for the removal of the vessel and
10308 restoration of the affected lands.

10309 (e) Any court-ordered reimbursed costs or damages in
10310 excess of the actual costs of removal and restoration initiated by
10311 the Department of Marine Resources must be deposited in a special
10312 fund in the State Treasury known as the "Derelict Vessel Fund"
10313 within the Seafood Fund. Any funds deposited in the fund must be
10314 used to cover the administrative costs and removal costs incurred
10315 by the department for the removal of vessels. Any remaining funds
10316 must be used to cover the costs of removing additional derelict



10317 vessels. However, any fines imposed for the damage to coastal
10318 wetlands will be placed in the Coastal Resource Management Fund.

10319 (12) **Department authorities.** (a) The department is
10320 authorized to enter into contracts with individuals, firms and
10321 corporations, or agreements with other state agencies for the
10322 removal and/or temporary storage of vessels prior to removal. The
10323 salvage value, if any, of the vessel may be used to offset the
10324 costs of the removal of the vessel and the restoration of the
10325 affected area. The department may enter into noncompetitive
10326 contracts or agreements with any state or federal entity for the
10327 removal of vessels.

10328 (b) The department may enter into interstate or
10329 intrastate agreements toward this end, and may seek and utilize
10330 aid from all federal, state, and local sources in this endeavor.

10331 (c) The Department of Marine Resources shall adopt
10332 rules and regulations necessary and appropriate to carry out this
10333 section for actions falling within its jurisdiction.

10334 (d) The department may promulgate regulations to
10335 establish a derelict vessel prevention program to address vessels
10336 at risk of becoming derelict. Such program may, but is not
10337 required to, include:

10338 (i) Removal, relocation, and destruction of
10339 vessels declared a public nuisance due to the lack of proper
10340 marine sanitation, derelict or at risk of becoming derelict, or
10341 lost or abandoned.



10342 (ii) Creation of a vessel turn-in program allowing
10343 the owner of a vessel determined by the department to be at risk
10344 of becoming derelict, to turn the vessel and vessel title over to
10345 the department to be destroyed without penalty.

10346 (iii) Providing for removal and destruction or
10347 other disposition of an abandoned vessel for which an owner cannot
10348 be identified or the owner of which is deceased and no heir is
10349 interested in acquiring the vessel.

10350 (iv) Purchase of anchor line, anchors, and other
10351 equipment necessary for securing vessels at risk of becoming
10352 derelict.

10353 (v) Creating or acquiring moorings designated for
10354 securing vessels at risk of becoming derelict.

10355 (e) The State of Mississippi, the Commission on Marine
10356 Resources, the Department of Marine Resources, and their employees
10357 and representatives shall not be liable for any damages resulting
10358 from the removal, towing, storage, sale or disposal of any vessel
10359 that is derelict or hazardous under this section.

10360 (f) The department or any party with standing does not
10361 incur liability for any resulting damage to the vessel or any
10362 damage the vessel may cause to any property or person during the
10363 time frame between posting notice and vessel removal. If any
10364 damages occur during the period of time between notice and removal
10365 of the vessel, the registered vessel owner, according to MDWFP
10366 records, is presumed liable for all damages.



10367 **SECTION 195.** Section 49-35-23, Mississippi Code of 1972, is
10368 brought forward as follows:

10369 49-35-23. This article shall not:

10370 (a) Affect the authority of local governments to
10371 regulate land use under applicable statutes. The use or uses of
10372 the brownfield agreement site and any land-use restrictions or
10373 engineering controls in the brownfield agreement shall be
10374 consistent with local land-use regulations adopted under
10375 applicable statutes;

10376 (b) Amend, modify, repeal, or otherwise alter any
10377 provision of law available to the commission relating to
10378 enforcement of violations of federal or state law within its
10379 jurisdiction, including civil and criminal penalties;

10380 (c) Prevent or impede the immediate response of the
10381 department or responsible party to an emergency that involves an
10382 imminent or actual release of a contaminant that threatens public
10383 health or the environment;

10384 (d) Relieve a person receiving liability protection
10385 under this section from any liability for environmental
10386 contamination later caused or made worse by that person on or
10387 under a brownfield agreement site;

10388 (e) Affect the right of any person who may have
10389 liability with respect to the brownfield agreement site to seek
10390 contribution from any other person who may have liability with



10391 respect to the brownfield agreement site and who does not have
10392 liability protection under this article;

10393 (f) Prevent the commission from enforcing specific
10394 numerical remediation standards, monitoring, or compliance
10395 requirements specifically required by the federal government to be
10396 enforced as a condition for the department to receive or maintain
10397 program authorization, delegation, primacy, or federal funds;

10398 (g) Create a defense against the imposition of criminal
10399 and civil penalties or other administrative enforcement remedies
10400 authorized by law and imposed as the result of the illegal
10401 disposal of solid waste or a regulated substance or for the
10402 pollution of the land, air, or waters of this state on or under a
10403 brownfield agreement site;

10404 (h) Relieve a person of any liability for failure to
10405 exercise due diligence and reasonable care in performing an
10406 environmental assessment; or

10407 (i) Create or convey any real or personal property
10408 rights, tangible or intangible, to any person.

10409 **SECTION 196.** Section 51-1-1, Mississippi Code of 1972, is
10410 brought forward as follows:

10411 51-1-1. Except as otherwise provided in Section 27-109-1,
10412 all rivers, creeks and bayous in this state, twenty-five (25)
10413 miles in length, that have sufficient depth and width of water for
10414 thirty (30) consecutive days in the year for floating a steamboat



10415 with carrying capacity of two hundred (200) bales of cotton are
10416 hereby declared to be navigable waters of this state.

10417 **SECTION 197.** Section 51-3-1, Mississippi Code of 1972, is
10418 brought forward as follows:

10419 51-3-1. It is hereby declared that the general welfare of
10420 the people of the State of Mississippi requires that the water
10421 resources of the state be put to beneficial use to the fullest
10422 extent of which they are capable, that the waste or unreasonable
10423 use, or unreasonable method of use, of water be prevented, that
10424 the conservation of such water be exercised with the view to the
10425 reasonable and beneficial use thereof in the interest of the
10426 people, and that the public and private funds for the promotion
10427 and expansion of the beneficial use of water resources shall be
10428 invested to the end that the best interests and welfare of the
10429 people are served.

10430 It is the policy of the Legislature that conjunctive use of
10431 groundwater and surface water shall be encouraged for the
10432 reasonable and beneficial use of all water resources of the state.
10433 The policies, regulations and public laws of the State of
10434 Mississippi shall be interpreted and administered so that, to the
10435 fullest extent possible, the ground and surface water resources
10436 within the state shall be integrated in their use, storage,
10437 allocation and management.

10438 All water, whether occurring on the surface of the ground or
10439 underneath the surface of the ground, is hereby declared to be



10440 among the basic resources of this state to therefore belong to the
10441 people of this state and is subject to regulation in accordance
10442 with the provisions of this chapter. The control and development
10443 and use of water for all beneficial purposes shall be in the
10444 state, which, in the exercise of its police powers, shall take
10445 such measures to effectively and efficiently manage, protect and
10446 utilize the water resources of Mississippi.

10447 **SECTION 198.** Section 51-3-7, Mississippi Code of 1972, is
10448 brought forward as follows:

10449 51-3-7. (1) Notwithstanding the provisions of this chapter,
10450 a person using water for only domestic purposes shall not be
10451 required to obtain a permit to use water for domestic purposes,
10452 and no permit shall be required for the use of surface water in
10453 impoundments that are not located on continuous, free-flowing
10454 watercourses. No permit shall be required for any use of water
10455 obtained from a well with a surface casing diameter of less than
10456 six (6) inches; however, a permit shall be required of a person in
10457 the business of developing real property for resale who desires to
10458 withdraw water from a well, regardless of surface casing diameter,
10459 that is to be used for maintaining or enhancing an impoundment of
10460 surface water primarily for aesthetic purposes. If the commission
10461 declares and delineates a water use caution area as provided in
10462 Section 51-3-11, the permit board may require permits for
10463 withdrawals of water in excess of twenty thousand (20,000) gallons



10464 per day, including withdrawals of water for uses exempted under
10465 this subsection.

10466 (2) The board shall have the authority to permit the use of
10467 water of any stream only in excess of the established minimum flow
10468 as based upon records or computations by the commission. However,
10469 exceptions may be made for municipal users. The board may
10470 authorize any permittee to use the established minimum flow upon
10471 written assurance, supported by any data and reporting
10472 requirements that the board deems appropriate that the water will
10473 be immediately returned to the stream in substantially the same
10474 amount to insure the maintenance at all times of the established
10475 minimum flow. The board may authorize a permittee to use the
10476 established minimum flow for industrial purposes when the water
10477 shall be returned to the stream at a point downstream from the
10478 place of withdrawal, where the board finds that the use will not
10479 result in any substantial detriment to property owners affected
10480 thereby or to the public interest.

10481 (3) The board shall have the authority to permit the use of
10482 water of any lake only in excess of the established average
10483 minimum lake level as based upon records or computations by the
10484 commission. However, exceptions may be made for municipal users.
10485 The board, upon affording a hearing to interested parties, may
10486 authorize any permittee to use below the established average
10487 minimum level when such use will not affect plans for the proper
10488 utilization of the water resources of the state, or the commission



10489 may establish a level above the established average minimum lake
10490 level, after affording an opportunity for a hearing, where plans
10491 for the proper utilization of the water resources of the state
10492 require it.

10493 (4) No use of water shall be authorized that will impair the
10494 effect of stream standards set under the pollution control laws of
10495 this state based upon a minimum stream flow.

10496 (5) No use of water shall be authorized or continued that
10497 will impair the navigability of any navigable watercourse.

10498 (6) No use of water shall be permitted if the use shall
10499 cause mining of any aquifer unless the board shall find that the
10500 use is essential to the safety of human life and property or
10501 unless the applicant for a permit for such use can show to the
10502 satisfaction of the board that he or another person of sufficient
10503 financial capability has applied for permit or made any other
10504 definite commitment to a plan to acquire water from another source
10505 in lieu of the water being mined from the aquifer and which will
10506 not also result in mining of any other aquifer.

10507 **SECTION 199.** Section 51-1-4, Mississippi Code of 1972, is
10508 brought forward as follows:

10509 51-1-4. (1) Those portions of all natural flowing streams
10510 in this state having a mean annual flow of not less than one
10511 hundred (100) cubic feet per second, as determined and designated
10512 on appropriate maps by the Mississippi Department of Environmental
10513 Quality, shall be public waterways of the state on which the



10514 citizens of this state and other states shall have the right of
10515 free transport in the stream and the right to fish and engage in
10516 water sports. Persons exercising the rights granted by this
10517 section shall do so at their own risk, and such persons, their
10518 heirs or others on their behalf shall not be entitled to recover
10519 any damages against any owner of property or an interest in
10520 property on or along such public waterways or against anyone using
10521 such property with permission of the owner for any injury to or
10522 death of persons or damage to property arising out of the exercise
10523 of rights granted by this section, other than those damages which
10524 may be recovered for intentional or malicious torts or for gross
10525 or willful negligence against the owner of property or an interest
10526 therein or against anyone using such property with permission of
10527 the owner.

10528 (2) Nothing contained in this section shall authorize anyone
10529 utilizing public waterways, under the authority granted by this
10530 section, to trespass upon adjacent lands or to launch or land any
10531 commercial or pleasure craft along or from the shore of such
10532 waterways except at places established by public or private
10533 entities for such purposes.

10534 (3) Nothing contained in this section shall authorize any
10535 person utilizing those public waterways, under the authority
10536 granted by this section, to disturb the banks or beds of such
10537 waterways or the discharge of any object or substance into such
10538 waters or upon or across any lands adjacent thereto or to hunt or



10539 fish or go on or across any adjacent lands under floodwaters
10540 beyond the natural banks of the bed of the public waterway.
10541 Floodwater which has overflowed the banks of a public waterway is
10542 not a part of the public waterway.

10543 (4) The right of the public to use public waterways does not
10544 include the use of motorized vehicles in the beds of a public
10545 waterway without the written permission of the landowner. Any
10546 person who uses a motorized vehicle in the bed of a public
10547 waterway without the written permission of the landowner may be
10548 punished as provided in Section 97-17-93.

10549 (a) It shall be unlawful for any person to operate any
10550 all-terrain vehicle, four-wheel-drive motorized vehicle, or other
10551 wheeled or tracked conveyance within the bed of a public waterway
10552 and following the meanders thereof in such a way as to cause
10553 damage to the streambed.

10554 (b) It shall be unlawful for any person to offer a
10555 permission or a license for a fee for the operation of any of the
10556 conveyances prohibited in this subsection within the bed of a
10557 public waterway.

10558 (c) A violation of this subsection shall be a Class II
10559 violation and, upon conviction thereof, may be punished as
10560 provided in Section 49-7-143.

10561 (d) Nothing in this subsection shall be construed as
10562 prohibiting the normal, usual and ordinary fording of streams by



10563 persons authorized to do so for legitimate recreational,
10564 agricultural, forestry or other lawful purposes.

10565 (5) Nothing contained in this section shall be construed to
10566 prohibit the construction of dams and reservoirs by the State of
10567 Mississippi or any of its agencies or political subdivisions, or
10568 riparian owners, in the manner now or hereafter authorized by law,
10569 or in any way to affect the rights of riparian landowners along
10570 such waterways except as specifically provided hereinabove or to
10571 amend or repeal any law relating to pollution or water
10572 conservation, or to affect in any manner the title to the banks
10573 and beds of any such stream or the title to any minerals
10574 thereunder, or to restrict the mining or extraction of such
10575 minerals or the right of ingress and egress thereto.

10576 (6) The provisions of this section limiting the liability of
10577 owners of property along public waterways and persons using such
10578 property with permission of the owners shall not be construed to
10579 limit any rights of claimants for damages under federal statutes
10580 or acts applying to navigable streams or waterways or any other
10581 civil causes of action subject to admiralty or maritime
10582 jurisdiction, nor shall those provisions be construed to limit the
10583 rights of any parties involved in litigation founded upon the
10584 commercial or business usage of any navigable streams or
10585 waterways.

10586 (7) This section shall apply only to natural flowing
10587 streams.



10588 (8) Any lake hydrologically connected to a natural flowing
10589 stream and listed as a public waterway under subsection (1) on
10590 July 1, 2000, and subsequently removed from that list before July
10591 1, 2001, by the Commission on Environmental Quality because the
10592 lake did not meet the requirements of subsection (1), shall be
10593 presumed to be a public waterway until a court of competent
10594 jurisdiction determines otherwise. Nothing in this subsection
10595 shall be construed to determine the property rights in the bed or
10596 banks of the lake, the right of ingress or egress across private
10597 property to the lake, or mineral interests.

10598 **SECTION 200.** Section 51-2-3, Mississippi Code of 1972, is
10599 brought forward as follows:

10600 51-2-3. (1) It is unlawful for any person or vessel to
10601 discharge any type of plastics, including synthetic ropes, fishing
10602 nets, garbage bags and other garbage, including paper products,
10603 glass, metal, dunnage, lining and packing materials into the
10604 marine waters of this state.

10605 (2) For purposes of this section, vessel means any boat,
10606 barge, or other vehicle operating in the marine environment from
10607 the largest supertanker to the smallest recreational craft.

10608 (3) The following substances shall be kept in closed
10609 containers whenever present on a vessel in the marine waters of
10610 this state: fuel, oil, paints, varnishes, solvents, pesticides,
10611 insecticides, fungicides, algicides, other hazardous liquids, and
10612 those substances referred to in subsection (1). The containers



10613 shall be sufficient to prevent the substances from escaping in the
10614 event the container is released into marine waters. Closed
10615 containers shall not be required for substances intended for human
10616 consumption, or for bait. Closed containers shall not be required
10617 while vessels are taking on or unloading cargo and provisions.

10618 (4) This section shall not apply to substances released into
10619 marine waters accidentally or due to an act of nature, provided:

10620 (a) That persons involved in an accident make good
10621 faith efforts to recover any substances released, proper
10622 allowances being first made for personal safety; and

10623 (b) That snagged or entangled fishing tackle and nets
10624 are recovered as much as is reasonably possible, and the
10625 unrecovered remainder is caused to sink.

10626 (5) (a) For a first violation, any person or vessel who
10627 violates this chapter is guilty of a misdemeanor and upon
10628 conviction shall be punished by a fine not to exceed Five Hundred
10629 Dollars (\$500.00) or community service requiring litter collection
10630 of not less than twenty-five (25) hours nor more than two hundred
10631 fifty (250) hours, or both. Persons under eighteen (18) years of
10632 age shall be penalized with community service, and may be assessed
10633 a fine as well. Each day of a continuing violation constitutes a
10634 separate violation.

10635 (b) For a second or subsequent violation, any person or
10636 vessel who violates this chapter is guilty of a misdemeanor and
10637 upon conviction shall be punished by a fine not to exceed Ten



10638 Thousand Dollars (\$10,000.00), or revocation of boating licenses,
10639 or both.

10640 **SECTION 201.** Section 51-3-13, Mississippi Code of 1972, is
10641 brought forward as follows:

10642 51-3-13. Use of waters of the state shall not constitute
10643 absolute ownership or absolute rights of use of such waters, but
10644 such waters shall remain subject to the principle of beneficial
10645 use. It shall be the duty of the board to approve all
10646 applications made in such form as shall meet the requirements of
10647 this chapter and such rules and regulations as shall be
10648 promulgated by the board and which contemplate the utilization of
10649 water for beneficial purposes, within reasonable limitations,
10650 provided the proposed use does not prejudicially and unreasonably
10651 affect the public interest. If it is determined that the proposed
10652 use of the water sought to be permitted is not for beneficial
10653 purposes, is not consistent with standards established by the
10654 commission, or is detrimental to the public interest, it shall be
10655 the duty of the board to enter an order rejecting such application
10656 or requiring its modification.

10657 **SECTION 202.** Section 51-3-21, Mississippi Code of 1972, is
10658 brought forward as follows:

10659 51-3-21. (1) The commission, through its Office of Land and
10660 Water Resources, shall proceed as rapidly as possible to study
10661 existing water resources in the state; means and methods of
10662 conserving and augmenting such waters; existing and contemplated



10663 needs and uses of water for protection and procreation of fish and
10664 wildlife, irrigation, mining, power development, and domestic,
10665 municipal, and industrial uses; and all other related subjects,
10666 including drainage, reclamation, flood-plain or flood-hazard area
10667 zoning, and selection of reservoir sites. Not later than July 1,
10668 1997, the commission shall formulate, as a functional element of a
10669 comprehensive state plan, an integrated, coordinated plan for the
10670 use and development of the waters of the state, based on the above
10671 studies. This plan, with such amendments, supplements and
10672 additions as may be necessary from time to time, shall be known as
10673 the "state water management plan."

10674 (2) In the formulation of the state water management plan,
10675 the commission shall give due consideration to:

10676 (a) The attainment of maximum beneficial use of water
10677 for such purposes as those referred to in subsection (1).

10678 (b) The maximum economic development of the water
10679 resources consistent with other uses.

10680 (c) The control of such waters for such purposes as
10681 environmental protection, drainage, flood control and water
10682 storage.

10683 (d) The quantity of water available for application to
10684 a beneficial use.

10685 (e) The prevention of wasteful, uneconomical,
10686 impractical or unreasonable uses of water resources, including
10687 free-flowing wells, existing or otherwise, regardless of size.



10688 (f) Presently exercised domestic or exempted uses and
10689 permit rights.

10690 (g) The preservation and enhancement of the water
10691 quality of the state and the provisions of the state water quality
10692 plan.

10693 (h) The state water resources policy as expressed by
10694 this chapter.

10695 (i) The allocation of surface water and groundwater in
10696 those situations in which the Governor has declared that an
10697 emergency situation exists which creates an imminent and
10698 substantial endangerment threatening the public health and safety
10699 or the lives and property of the people of this state.

10700 (3) During the process of formulating or revising the state
10701 water management plan, the commission shall consult with and
10702 carefully evaluate the recommendations of concerned federal, state
10703 and local agencies, particularly the governing boards of the water
10704 management districts and local governments, and other interested
10705 persons. The commission may conduct such public meetings or
10706 hearings as it may deem necessary or appropriate to insure maximum
10707 public involvement in the formulation and adoption of the state
10708 water management plan.

10709 (4) Each such governing board is directed to cooperate with
10710 the commission in conducting surveys and investigations of water
10711 resources, to furnish the commission with all available data of a
10712 technical nature, and to advise and assist the commission in the



10713 formulation and drafting of those portions of the state plan
10714 applicable to such water management district or local government.

10715 (5) For the purposes of this plan the commission may, in
10716 consultation with the affected governing board, divide each water
10717 management district into sections which shall conform as nearly as
10718 practicable to hydrologically controllable areas and describe all
10719 water resources within each area.

10720 (6) The commission shall give careful consideration to the
10721 requirements of public recreation and to the protection and
10722 procreation of fish and wildlife. The commission may prohibit or
10723 restrict other future uses on certain designated bodies of water
10724 which may be inconsistent with these objectives.

10725 (7) The commission may designate certain uses in connection
10726 with a particular source of supply which, because of the nature of
10727 the activity or the amount of water required, would constitute an
10728 undesirable use for which the permit board may deny a permit.

10729 (8) The commission may designate certain uses in connection
10730 with a particular source of supply which, because of the nature of
10731 the activity or the amount of water required, would result in an
10732 enhancement or improvement of the water resources of the area.
10733 Such uses shall be preferred over other uses in the event of
10734 competing applications under the permitting system authorized by
10735 this chapter.

10736 (9) The commission may add to the state water management
10737 plan any other information, directions or objectives it deems



10738 necessary or desirable for the guidance of governing boards or
10739 other agencies in the administration and enforcement of this
10740 chapter.

10741 (10) The commission may delegate to any joint water
10742 management district authority to assist the commission in
10743 preparation, administration and implementation of the state water
10744 management plan, or any activity related thereto, in such
10745 district.

10746 **SECTION 203.** Section 51-3-39, Mississippi Code of 1972, is
10747 brought forward as follows:

10748 51-3-39. (1) Any person proposing to construct, enlarge,
10749 repair or alter a dam or reservoir in this state except as
10750 provided elsewhere in this section, before proceeding with the
10751 construction thereof, must obtain written authorization from the
10752 board. Applications shall be made on forms provided by the board,
10753 and detailed plans shall be required when deemed necessary by the
10754 board in order to determine whether the proposed construction will
10755 provide adequate safety for downstream lives and property, and
10756 will not adversely affect downstream water rights or plans for the
10757 proper utilization of the water resources of the state. Provided
10758 further, that:

10759 (a) Written construction authorization shall not be
10760 required for any dam or barrier to impound water which (i) is a
10761 peripheral dam or barrier of eight (8) feet or less in height,
10762 measured from the point of lowest elevation of the toe of the dam



10763 or barrier, regardless of impounded storage volume, (ii) impounds
10764 twenty-five (25) acre-feet or less at maximum storage volume, or
10765 (iii) which does not impound a watercourse with a continuous flow
10766 of water.

10767 (b) Any person who seeks to build and maintain a dam on
10768 any watercourse lying in whole or in part within a levee district
10769 duly constituted under the laws of this state shall first obtain
10770 permission from the levee board of such levee district.

10771 (c) Any person intending to acquire the right to store
10772 or use water from a reservoir formed by a dam on a watercourse
10773 regardless of whether or not written construction authorization
10774 therefor was required under this section, may do so only by making
10775 an application for a permit as provided elsewhere in this chapter.

10776 (2) The board may request other agencies, or contract with
10777 consultants, to recommend land treatment or facilities necessary
10778 to prevent pollution of the waters of this state, or to protect
10779 the safety and general welfare of the people, and in the board's
10780 discretion, may require that these recommendations be followed
10781 before authorization to construct or modify the dam is issued, or
10782 order the removal of the dam after it has been constructed or
10783 request the commission to order the removal of the dam after it
10784 has been constructed or modified when such recommendations are not
10785 followed.

10786 (3) The board and commission shall be authorized to make
10787 inspections of dams and reservoirs, regardless of whether or not



10788 written construction authorization therefor was required under
10789 this section, for the purpose of determining their safety, and
10790 shall require owners to perform at their expense such work as may
10791 be necessary for maintenance and operation which will safeguard
10792 life and property. Provided, however, a dam or reservoir may be
10793 exempt from inspections when the commission determines that the
10794 location, size or condition is such that lives and property will
10795 not be endangered. In carrying out the provisions of this
10796 section, the board and commission are authorized to expend
10797 available state funds, to receive funds from federal agencies, to
10798 contract with consultants and/or other agencies, and the
10799 commission may issue orders to owners of dams or reservoirs found
10800 to be unsafe requiring them to take the prescribed remedial action
10801 to safeguard downstream lives and property.

10802 (4) No dam or reservoir, regardless of whether or not
10803 written construction authorization therefor is required under this
10804 section, may be constructed in such a manner as to impair the
10805 common law or other lawful rights of water users below or plans
10806 for the proper utilization of the water resources of the state.
10807 The board is authorized to prescribe such minimum flow releases
10808 from any dam or reservoir as may be found necessary to protect
10809 downstream users or otherwise prudently manage available surface
10810 water.

10811 (5) When the board or commission finds a dam or reservoir
10812 constructed or modified in violation of this chapter or that the



10813 owner of a dam or reservoir has allowed the structure to
10814 deteriorate and remain in an unsafe condition after having been
10815 ordered to make the necessary repairs, then the commission may
10816 cause the structure to be removed and/or the board may revoke or
10817 modify any other authorization pertaining thereto.

10818 (6) The provisions of this section shall not be construed as
10819 creating any liability for damages against the state and/or
10820 against its officers, agents and employees.

10821 (7) The provisions of this section shall apply also to a
10822 county board of supervisors when constructing dams or low-water
10823 control structures on lakes or bodies of water in accordance with
10824 the provisions of Section 19-5-92.

10825 **SECTION 204.** Section 51-4-7, Mississippi Code of 1972, is
10826 brought forward as follows:

10827 51-4-7. (1) There is hereby created the State Scenic
10828 Streams Stewardship Program. The department shall coordinate the
10829 program. The department shall establish and publish minimum
10830 criteria for assessing a stream's eligibility for the State Scenic
10831 Streams Stewardship Program. To qualify as eligible, the stream
10832 must possess unique or outstanding scenic, recreational,
10833 geological, botanical, fish, wildlife, historic or cultural
10834 values. The level of pollution of a stream's waters must be
10835 considered in determining eligibility for qualification as a
10836 scenic stream. A stream with relatively polluted waters may



10837 qualify as eligible as a scenic stream if other values are
10838 considered outstanding.

10839 (2) (a) The department shall inventory and evaluate
10840 Mississippi streams and identify the streams or stream segments
10841 which possess unique or outstanding scenic, recreational,
10842 geological, botanical, fish, wildlife, historic or cultural values
10843 based on the criteria established under this section.

10844 (b) Any Mississippi organization, resident, state
10845 agency or local government may request the department to evaluate
10846 a stream.

10847 (3) If the department determines that a stream meets the
10848 eligibility criteria, the department may recommend to the
10849 Legislature that a stream or stream segment be listed as eligible
10850 for nomination to the State Scenic Streams Stewardship Program.
10851 In order for a stream to be listed as eligible for nomination to
10852 the State Scenic Streams Stewardship Program, the recommendation
10853 must be filed as a bill and must be adopted by the Legislature.

10854 **SECTION 205.** Section 51-9-5, Mississippi Code of 1972, is
10855 brought forward as follows:

10856 51-9-5. The Pearl River Industrial Commission is hereby
10857 authorized and empowered to do any and all things necessary or
10858 deemed by it advisable in making a survey or surveys of the region
10859 bordering the Pearl River, to investigate the possibilities of
10860 developing such areas from an industrial, irrigational, and
10861 recreational standpoint, to attract new industries, and to



10862 conserve available water for irrigational and industrial purposes,
10863 acting in co-operation with the federal government or any agency
10864 thereof and with any other interested groups. It is contemplated
10865 that plans be considered and drawn and surveys made for the
10866 location of industrial sites and making the most advantageous use
10867 of available water supplies, to protect against pollution and to
10868 devise methods of disposing of industrial waste, and adapting a
10869 long-range plan of sewerage disposal for the area. The commission
10870 is charged with the responsibility of co-operating with the state
10871 board of water commissioners created by Section 51-3-15.

10872 **SECTION 206.** Section 51-9-103, Mississippi Code of 1972, is
10873 brought forward as follows:

10874 51-9-103. It is hereby declared, as a matter of legislative
10875 determination, that the waterways and surface waters of the state
10876 are among its basic resources, that the overflow and surface
10877 waters of the state have not heretofore been conserved to realize
10878 their full beneficial use, that the preservation, conservation,
10879 storage, and control of such waters are necessary to insure an
10880 adequate, sanitary water supply at all times, to promote the
10881 balanced economic development of the state, and to aid in flood
10882 control, conservation and development of state forests, irrigation
10883 of lands needing irrigation, and pollution abatement. It is
10884 further determined and declared that the preservation,
10885 conservation, storage, and control of the waters of the Pearl
10886 River and its tributaries and its overflow waters for domestic,



10887 municipal, commercial, industrial, agricultural, and manufacturing
10888 purposes, for recreational uses, for flood control, timber
10889 development, irrigation, and pollution abatement are, as a matter
10890 of public policy, for the general welfare of the entire people of
10891 the state.

10892 The creation of the Pearl River Valley Water Supply District
10893 is determined to be necessary and essential to the accomplishment
10894 of the aforesaid purposes, and this article operates on a subject
10895 in which the state at large is interested. All the terms and
10896 provisions of this article are to be liberally construed to
10897 effectuate the purposes herein set forth, this being a remedial
10898 law.

10899 **SECTION 207.** Section 51-9-121, Mississippi Code of 1972, is
10900 brought forward as follows:

10901 51-9-121. The Pearl River Valley Water Supply District
10902 through its board of directors is hereby empowered:

10903 (a) To impound overflow water and the surface water of
10904 the Pearl River or its tributaries within the project area, within
10905 or without this district at the place or places and in the amount
10906 as may be approved by the Office of Land and Water Resources of
10907 the State of Mississippi, by the construction of a dam or dams,
10908 reservoir or reservoirs, works, plants, and any other necessary or
10909 useful related facilities contemplated and described as a part of
10910 the project within or without the district, to control, store, and
10911 preserve these waters, and to use, distribute, and sell the same.



10912 The Pearl River Valley Water Supply District is also empowered to
10913 construct or otherwise acquire within the project area all works,
10914 plants, or other facilities necessary or useful to the project for
10915 the purpose of processing the water and transporting it to cities
10916 and others for domestic, municipal, commercial, industrial,
10917 agricultural, and manufacturing purposes and is hereby given the
10918 power to control open channels for water delivery purposes.

10919 (b) To acquire and develop any other available water
10920 necessary or useful to the project and to construct, acquire, and
10921 develop all facilities within the project area deemed necessary or
10922 useful with respect thereto.

10923 (c) To prevent or aid in the prevention of damage to
10924 person or property from the waters of the Pearl River or any of
10925 its tributaries.

10926 (d) To forest and reforest, and to aid in the foresting
10927 and reforesting of the project area, and to prevent and aid in the
10928 prevention of soil erosion and floods within this area; to
10929 control, store, and preserve within the boundaries of the project
10930 area the waters of the Pearl River or any of its tributaries, for
10931 irrigation of lands and for prevention of water pollution.

10932 (e) To acquire by purchase, lease, gift, or in any
10933 other manner (otherwise than by condemnation) and to maintain,
10934 use, and operate all property of any kind, real, personal, or
10935 mixed, or any interest therein within the project area, within or
10936 without the boundaries of the district, necessary for the project



10937 and convenient to the exercise of the powers, rights, privileges,
10938 and functions conferred upon the district by this article.

10939 (f) To acquire by condemnation all property of any
10940 kind, real, personal, or mixed, or any interest therein within the
10941 project area not exceeding one-quarter (1/4) mile from the outside
10942 line of the three hundred (300) feet above sea level contour on
10943 each side of the Pearl River except as provided for rights-of-way
10944 under subsection (g) of this section, within or without the
10945 boundaries of the district, necessary for the project and the
10946 exercise of the powers, rights, privileges, and functions
10947 conferred upon the district by this article, according to the
10948 procedure provided by law for the condemnation of lands or other
10949 property taken for rights-of-way or other purposes by railroads,
10950 telephone, or telegraph companies. For the purposes of carrying
10951 out this article, the right of eminent domain of the district
10952 shall be superior and dominant to the right of eminent domain of
10953 railroad, telegraph, telephone, gas, power, and other companies or
10954 corporations, and shall be sufficient to enable the acquisition of
10955 county roads, state highways, or other public property in the
10956 project area and the acquisition, or relocation, of the
10957 above-mentioned utility property in the project area; however,
10958 Mississippi Highway 43 as presently located shall be kept open as
10959 part of the state highway system. The cost of right-of-way
10960 purchases, rerouting, and elevating all other county maintained
10961 roads affected by construction of the reservoir shall be borne by



10962 the water district, and new construction shall be of equal quality
10963 as in roads existing as of May 5, 1958. The amount and character
10964 of interest in land, other property, and easements thus to be
10965 acquired shall be determined by the board of directors, and their
10966 determination shall be conclusive and shall not be subject to
10967 attack in the absence of manifold abuse of discretion or fraud on
10968 the part of such board in making such determination. However,

10969 (i) In acquiring lands, either by negotiation or
10970 condemnation, the district shall not acquire minerals or royalties
10971 within the project area; sand and gravel shall not be considered
10972 as minerals within the meaning of this section; * * *

10973 (ii) No person or persons owning the drilling
10974 rights or the right to share in production shall be prevented from
10975 exploring, developing, or producing oil or gas with necessary
10976 rights-of-way for ingress and egress, * * * pipelines, and other
10977 means of transporting these products by reason of the inclusion of
10978 such lands or mineral interests within the project area, whether
10979 below or above the * * * waterline; but any such activities shall
10980 be under such reasonable regulations by the board of directors as
10981 will adequately protect the reservoir; and

10982 (iii) In drilling and developing, these persons
10983 are hereby vested with a special right to have the mineral
10984 interest integrated and their lands developed in such drilling
10985 unit or units as the State Oil and Gas Board shall establish after



10986 due consideration of the rights of all of the owners to be
10987 included in the drilling unit.

10988 Moreover, where any site or plot of land is to be rented,
10989 leased, or sold to any person, firm, or corporation for the
10990 purpose of operating recreational facilities thereon for profit,
10991 then the board shall, by resolution, specify the terms and
10992 conditions of the sale, rental, or lease, and shall advertise for
10993 public bids thereon. When bids are received, they shall be
10994 publicly opened by the board, and the board shall thereupon
10995 determine the highest and best bid submitted and shall immediately
10996 notify the former owner of the site or plot of the amount, terms,
10997 and conditions of the highest and best bid. The former owner of
10998 the site or plot shall have the exclusive right at his option, for
10999 a period of thirty (30) days after the determination of the
11000 highest and best bid by the board, to rent, lease, or purchase
11001 said site or plot of land by meeting such highest and best bid and
11002 by complying with all terms and conditions of the renting,
11003 leasing, or sale as specified by the board. However, the board
11004 shall not in any event rent, lease, or sell to any former owner
11005 more land than was taken from the former owner for the
11006 construction of the project, or one-quarter (1/4) mile of
11007 shoreline, whichever is the lesser. If this option is not
11008 exercised by the former owner within a period of thirty (30) days,
11009 then the board shall accept the highest and best bid submitted.



11010 Any bona fide, resident householder, actually living or
11011 maintaining a residence on land taken by the district by
11012 condemnation shall have the right to repurchase not exceeding
11013 forty (40) acres of his former land or other available land from
11014 the board of directors for a price not exceeding the price paid
11015 for condemning his land.

11016 (g) To require the necessary relocation of roads and
11017 highways, railroad, telephone, and telegraph lines and properties,
11018 electric power lines, gas pipelines and mains and facilities in
11019 the project area, or to require the anchoring or other protection
11020 of any of these, provided due compensation is first paid the
11021 owners thereof or agreement is had with the owners regarding the
11022 payment of the cost of the relocation. It is further provided
11023 that the district is hereby authorized to acquire easements or
11024 rights-of-way in or outside of the project area for the relocation
11025 of the roads, highways, railroad, telephone, and telegraph lines
11026 and properties, electric power lines, gas pipelines and mains and
11027 facilities, and to convey the same to the owners thereof in
11028 connection with the relocation as a part of the construction of
11029 the project; however, the directors of the district shall not
11030 close any public access road to the reservoir existing prior to
11031 the construction of the reservoir unless the board of supervisors
11032 of the county in which the road is located agrees.



11033 (h) To overflow and inundate any public lands and
11034 public property, including sixteenth section lands and in_lieu
11035 lands, within the project area.

11036 (i) To construct, extend, improve, maintain, and
11037 reconstruct, to cause to be constructed, extended, improved,
11038 maintained, and reconstructed, and to use and operate facilities
11039 of any kind within the project area necessary or convenient to the
11040 project and to the exercise of such powers, rights, privileges,
11041 and functions.

11042 (j) To sue and be sued in its corporate name.

11043 (k) To adopt, use, and alter a corporate seal.

11044 (l) To make bylaws for the management and regulation of
11045 its affairs.

11046 (m) To employ engineers, attorneys, and all necessary
11047 agents and employees to properly finance, construct, operate, and
11048 maintain the project and the plants and facilities of the district
11049 and carry out the provisions of this article, and to pay
11050 reasonable compensation for the services. For all services in
11051 connection with the issuance of bonds as provided in this article,
11052 the attorney's fee shall not exceed one-quarter of one percent
11053 (1/4 of 1%) of the principal amount of said bonds. For any other
11054 services, only reasonable compensation shall be paid for these
11055 services. The board shall have the right to employ a general
11056 manager, who shall, at the discretion of the board, have the power
11057 to employ and discharge employees. Without limiting the



11058 generality of the foregoing, it may employ fiscal agents or
11059 advisors in connection with its financing program and in
11060 connection with the issuance of its bonds.

11061 (n) To make contracts and to execute instruments
11062 necessary or convenient to the exercise of the powers, rights,
11063 privileges, and functions conferred upon it by this article.

11064 (o) To make or cause to be made surveys and engineering
11065 investigations relating to the project, or related projects, for
11066 the information of the district to facilitate the accomplishment
11067 of the purposes for which it is created.

11068 (p) To apply for and accept grants from the United
11069 States of America, or from any corporation or agency created or
11070 designated by the United States of America, and to ratify and
11071 accept applications heretofore or hereafter made by voluntary
11072 associations to these agencies for grants to construct, maintain,
11073 or operate any project or projects which hereafter may be
11074 undertaken or contemplated by the district.

11075 (q) To do any other acts or things necessary or
11076 convenient to the exercising of the powers, rights, privileges, or
11077 functions conferred upon it by this article or any other law.

11078 (r) To make contracts in the issuance of bonds that may
11079 be necessary to insure the marketability thereof.

11080 (s) To enter into contracts with municipalities,
11081 corporations, districts, public agencies, political subdivisions
11082 of any kind, and others for any services, facilities or



11083 commodities that the project may provide. The district is also
11084 authorized to contract with any municipality, corporation, or
11085 public agency for the rental, leasing, purchase, or operation of
11086 the water production, water filtration or purification, water
11087 supply and distributing facilities of the municipality,
11088 corporation, or public agency upon such consideration as the
11089 district and such entity may agree. Any such contract may be upon
11090 any terms and for any time as the parties may agree, and it may
11091 provide that it shall continue in effect until bonds specified
11092 therein and refunding bonds issued in lieu of these bonds are
11093 paid. Any contract with any political subdivision shall be
11094 binding upon said political subdivision according to its terms,
11095 and any municipalities or other political subdivisions shall have
11096 the power to enter into such contracts as in the discretion of the
11097 governing authorities thereof would be to the best interest of the
11098 people of the municipality or other political subdivision. These
11099 contracts may include, within the discretion of the governing
11100 authorities, a pledge of the full faith and credit of the
11101 political subdivisions for the performance thereof.

11102 (t) To fix and collect charges and rates for any
11103 services, facilities, or commodities furnished by it in connection
11104 with the project, and to impose penalties for failure to pay these
11105 charges and rates when due.

11106 (u) To operate and maintain within the project area
11107 with the consent of the governing body of any city or town located



11108 within the district, any works, plants, or facilities of any city
11109 deemed necessary or convenient to the accomplishment of the
11110 purposes for which the district is created.

11111 (v) Subject to the provisions of this article, from
11112 time to time to lease, sell, or otherwise dispose of any property
11113 of any kind, real, personal, or mixed, or any interest therein
11114 within the project area or acquired outside the project area as
11115 authorized in this article, for the purpose of furthering the
11116 business of the district.

11117 (w) When, in the opinion of the board of directors as
11118 shown by resolution duly passed, it shall not be necessary to the
11119 carrying on of the business of the district that the district own
11120 any lands acquired, then the board shall advertise these lands for
11121 sale to the highest and best bidder for cash and shall receive and
11122 publicly open the bids thereon. The board shall, by resolution,
11123 determine the highest and best bid submitted for such land and
11124 shall thereupon notify the former owner, his heirs or devisees, by
11125 registered mail of the land to be sold and the highest and best
11126 bid received therefor, and the former owner, or his heirs or
11127 devisees, shall have the exclusive right at his or their option
11128 for a period of thirty (30) days in which to meet the highest and
11129 best bid and to purchase the property.

11130 (x) In addition to, or in conjunction with, any other
11131 powers and duties of the district arising under this chapter, to
11132 exercise those powers, duties and functions of a joint water



11133 management district set forth in Sections 51-8-27 through 51-8-55,
11134 except the power of eminent domain under Section 51-8-33. Before
11135 exercising those powers and duties, the district must comply with
11136 the provisions of Sections 51-8-63 and 51-8-65. In exercising the
11137 functions of a joint water management district, the district may
11138 apply to the Environmental Quality Permit Board for delegation of
11139 those powers and duties as provided by Section 51-3-15, and to
11140 apply to the Mississippi Commission on Environmental Quality for
11141 delegation of those powers and duties provided by Section 51-3-21.

11142 Any transaction regarding any property under the provisions
11143 of this section shall be executed in accordance with the
11144 provisions of Section 29-1-1.

11145 **SECTION 208.** Section 51-13-101, Mississippi Code of 1972, is
11146 brought forward as follows:

11147 51-13-101. It is hereby declared, as a matter of legislative
11148 determination, that the waterways and surface waters of the state
11149 are among its basic resources, that the overflow and surface
11150 waters of the state have not heretofore been conserved to realize
11151 their full beneficial use, that the utilization, development,
11152 conservation, and regulation of such waters are necessary to
11153 insure an adequate flood control program, sanitary water supply at
11154 all times, to promote the balanced economic development of the
11155 state, and to aid in conservation and development of state
11156 forests, irrigation of lands needing irrigation, navigation, and
11157 pollution abatement. It is further determined and declared that



11158 the preservation, conservation, storage, and regulation of the
11159 waters of the Tombigbee River, its tributaries, and its overflow
11160 waters for domestic, municipal, commercial, industrial,
11161 agricultural, and manufacturing purposes, for recreational uses,
11162 flood control, timber development, irrigation, navigation, and
11163 pollution abatement are, as a matter of public policy, for the
11164 general welfare of the entire people of the state.

11165 The creation of the Tombigbee River Valley Water Management
11166 District is determined to be necessary and essential to the
11167 accomplishment of the aforesaid purposes, and this article
11168 operates on a subject in which the state at large is interested.
11169 All the terms and provisions of this article are to be liberally
11170 construed to effectuate the purposes herein set forth, this being
11171 a remedial law.

11172 **SECTION 209.** Section 51-35-303, Mississippi Code of 1972, is
11173 brought forward as follows:

11174 51-35-303. (a) It is hereby declared, as a matter of
11175 legislative determination, that the lands and properties along the
11176 waterways and rivers of the state are among its basic resources,
11177 that the overflow and surface waters of the state have not
11178 heretofore been conserved or fully controlled to realize their
11179 full beneficial use, that the control of such waters is necessary
11180 to insure adequate protection to the inhabitants of the State of
11181 Mississippi and their properties, and to the municipalities of the
11182 State of Mississippi, to promote the balanced economic development



11183 of the state and to aid in flood control, conservation, and
11184 development of lands and property, and of the general health and
11185 welfare of the people of the State of Mississippi. It is further
11186 determined and declared that the diversion and control of the
11187 waters of any rivers on their tributaries and their overflow
11188 waters in or near municipalities for the protection and
11189 development of domestic, municipal, commercial, industrial, and
11190 manufacturing functions, for flood control, and for pollution
11191 abatement are, as a matter of public policy, for the general
11192 welfare of the entire people of the State of Mississippi.

11193 (b) The creation of flood and drainage control districts to
11194 control the waters of the rivers of the State of Mississippi or
11195 their tributaries and their overflow waters is determined to be
11196 necessary and essential to the accomplishment of the aforesaid
11197 purposes and this article operates on a subject in which the state
11198 at large is interested. All the terms and provisions of this
11199 article are to be liberally construed to effectuate the purposes
11200 herein set forth, this being a remedial law.

11201 **SECTION 210.** Section 53-3-71, Mississippi Code of 1972, is
11202 brought forward as follows:

11203 53-3-71. Any person, firm or corporation duly authorized to
11204 engage in the exploration or production of oil, gas or other
11205 minerals under the provisions of Chapter 7, Title 29, Mississippi
11206 Code of 1972, and any person, firm or corporation duly authorized
11207 to engage in the transportation of oil, gas and other minerals



11208 under the provisions of Sections 29-1-101 through 29-1-105,
11209 Mississippi Code of 1972, shall have the right to construct,
11210 operate and maintain facilities incident to such operations in any
11211 of the navigable waters of the state upon obtaining from the state
11212 oil and gas board a permit for the construction, operation and
11213 maintenance of such facilities.

11214 **SECTION 211.** Section 53-3-165, Mississippi Code of 1972, is
11215 brought forward as follows:

11216 53-3-165. No provisions of Sections 53-3-151 through
11217 53-3-165 shall operate so as to authorize the establishment of
11218 underground storage of natural gas or compressed air in the
11219 offshore waters of the State of Mississippi.

11220 **SECTION 212.** Section 53-7-35, Mississippi Code of 1972, is
11221 brought forward as follows:

11222 53-7-35. (1) Any permit issued under this chapter shall
11223 require operations to comply with all applicable reclamation
11224 standards of this chapter. Reclamation standards shall apply to
11225 all operations, exploration activities and reclamation operations
11226 covered by this chapter and shall require the operator at a
11227 minimum to:

11228 (a) Conduct operations in a manner consistent with
11229 prudent mining practice, so as to maximize the utilization and
11230 conservation of the resource being recovered; and, in keeping with
11231 the intent of maximizing the value of mined land, stockpiles of
11232 commercially valuable material may remain, if they are



11233 ecologically stable. Stockpiling shall be subject to rules and
11234 regulations adopted by the commission;

11235 (b) Restore the affected area so that it may be used
11236 for a useful, productive and beneficial purpose, including an
11237 agricultural, grazing, commercial, residential or recreational
11238 purpose, including lakes, ponds, wetlands, wildlife habitat, or
11239 other natural or forested areas;

11240 (c) Conduct water drainage and silt control for the
11241 affected area to strictly control soil erosion, damage to adjacent
11242 lands and pollution of waters of the state, both during and
11243 following the mining operations. Before, during and for a
11244 reasonable period after mining, all drainways for the affected
11245 area shall be protected with silt traps or dams of approved design
11246 as directed by the regulations. The operator may impound water to
11247 provide wetlands, lakes or ponds of approved design for wildlife,
11248 recreational or water supply purposes, if it is a part of the
11249 approved reclamation plan;

11250 (d) Remove or cover all metal, lumber and other refuse,
11251 except vegetation, resulting from the operation;

11252 (e) Regrade the area to the nearest approximate
11253 original contour or rolling topography, and eliminate all
11254 highwalls and spoil piles, except as provided in an approved
11255 reclamation plan. Lakes, ponds or wetlands may be constructed, if
11256 part of an approved reclamation plan;



11257 (f) Stabilize and protect all affected areas
11258 sufficiently to control erosion and attendant air and water
11259 pollution;

11260 (g) Remove the topsoil, if any, from the affected area
11261 in a separate layer, and place it on any authorized lieu lands to
11262 be reclaimed or replace it on the backfill area. If not utilized
11263 immediately, the topsoil shall be segregated in a separate pile
11264 from other spoil. If the topsoil is not replaced on a backfill
11265 area of authorized lieu lands within a time short enough to avoid
11266 deterioration, the topsoil shall be protected by a successful
11267 cover of plants or by other means approved by the Permit Board.
11268 If topsoil is of insufficient quantity or of poor quality for
11269 sustaining vegetation and if other strata can be shown to be as
11270 suitable for vegetation requirements, then the operator may
11271 petition the Permit Board for permission to be exempt from the
11272 requirements for the removal, segregation and preservation of
11273 topsoil and to remove, segregate and preserve in a like manner
11274 other strata which is best able to support vegetation or to mix
11275 strata, if that mixing can be shown to be equally suitable for
11276 revegetation requirements;

11277 (h) Replace, if required, available topsoil or the best
11278 available subsoil on top of the land to be reclaimed or on top of
11279 authorized lieu lands being reclaimed;

11280 (i) Minimize the disturbances to the prevailing
11281 hydrologic balance at the mine site and in associated off-site



11282 areas and to the quality and quantity of water in surface and
11283 groundwater systems both during and after surface mining
11284 operations and during reclamation by:

11285 (i) Avoiding acid or other toxic mine drainage by
11286 using measures such as, but not limited to:

11287 1. Preventing or removing water from contact
11288 with toxic-material producing deposits;

11289 2. Treating drainage to reduce toxic material
11290 content; and

11291 3. Casing, sealing or otherwise managing
11292 boreholes, shafts and wells to keep acid or other toxic material
11293 drainage from entering ground and surface waters;

11294 (ii) Conducting operations to prevent unreasonable
11295 additional levels of suspended solids to streamflow or runoff
11296 outside the permit area above natural levels under seasonal flow
11297 conditions;

11298 (iii) Removing temporary or large siltation
11299 structures from drainways, consistent with good water conservation
11300 practices, after disturbed areas are revegetated and stabilized;

11301 (iv) Performing any other actions as the
11302 commission may prescribe under rules and regulations adopted under
11303 this chapter;

11304 (j) Stabilize any waste piles;

11305 (k) Incorporate current engineering practices for the
11306 design and construction of water retention structures for the



11307 disposal of mine wastes, processing wastes or other liquid or
11308 solid wastes which, at a minimum, shall be compatible with the
11309 requirements of applicable state and federal laws and regulations,
11310 insure that leachate will not pollute surface or ground water, and
11311 locate water retention structures so as not to endanger public
11312 health and safety should failure occur;

11313 (l) Insure that all debris, acid-forming materials,
11314 toxic materials or materials constituting a fire hazard are
11315 treated or disposed of in a manner designed to prevent
11316 contamination of ground or surface waters or combustion;

11317 (m) Insure that construction, maintenance and
11318 postmining conditions of access roads into and across the permit
11319 area will minimize erosion and siltation, pollution of air and
11320 water, damage to fish or wildlife or their habitat, or public or
11321 private property. The Permit Board may authorize the retention
11322 after mining of certain access roads if compatible with the
11323 approved reclamation plan;

11324 (n) Refrain from the construction of roads or other
11325 access ways up a stream bed or drainage channel or in proximity to
11326 a channel where the construction would seriously alter the normal
11327 flow of water;

11328 (o) Revegetate the affected area with plants, approved
11329 by the department, to attain a useful, productive and beneficial
11330 purpose, including an agricultural, grazing, industrial,
11331 commercial, residential or recreational purpose, including lakes,



11332 ponds, wetlands, wildlife habitat or other natural or forested
11333 areas;

11334 (p) Assume responsibility for successful revegetation
11335 for a period of two (2) years beyond the date of initial bond
11336 release on any bond or deposit held by the department as provided
11337 by Section 53-7-67;

11338 (q) Assure with respect to permanent impoundments of
11339 water as part of the approved reclamation plan that:

11340 (i) The size of the impoundment and the
11341 availability of water are adequate for its intended purpose;

11342 (ii) The impoundment dam construction will meet
11343 the requirements of applicable state and federal laws;

11344 (iii) The quality of impounded water will be
11345 suitable on a permanent basis for its intended use and the
11346 discharges from the impoundment will not degrade the water quality
11347 in the receiving stream;

11348 (iv) Final grading will provide adequate safety
11349 and access for anticipated water users;

11350 (v) Water impoundments will not result in the
11351 diminution of the quality or quantity of water utilized by
11352 adjacent or surrounding landowners; and

11353 (r) Protect off-site areas from slides or damage
11354 occurring during the surface mining and reclamation operations,
11355 and not deposit spoil material or locate any part of the
11356 operations or waste accumulations outside the permit area.



11357 (2) The purpose of this section is to cause the affected
11358 area to be restored to a useful, productive and beneficial
11359 purpose. A method of reclamation other than that provided in this
11360 section may be approved by the Permit Board if the Permit Board
11361 determines that the method of reclamation required by this section
11362 is not practical and that the alternative method will provide for
11363 the affected area to be restored to a useful, productive and
11364 beneficial purpose. If an alternative method of reclamation is
11365 generally applicable to all operations involving a particular
11366 material, the commission may promulgate appropriate rules and
11367 regulations for use of the alternative method.

11368 (3) Each operator, except as authorized by the Permit Board,
11369 shall perform reclamation work concurrently with the conduct of
11370 the mining operation where practical. The fact that an operator
11371 will likely redisturb an area shall be cause for the Permit Board
11372 to grant an exception from the requirement of concurrent
11373 reclamation.

11374 (4) The operator and, in case of bond forfeiture, the
11375 department or its designee, shall have the continuing right to
11376 enter and inspect the affected area in the reclamation plan and to
11377 perform any reclamation measures required properly to complete the
11378 reclamation plan.

11379 (5) (a) If the commission finds that (i) reclamation of the
11380 affected area is not proceeding in accordance with the reclamation
11381 plan and that the operator has failed within thirty (30) days



11382 after notice to commence corrective action or (ii) revegetation
11383 has not been properly completed in conformance with the
11384 reclamation plan within two (2) years or longer, if required by
11385 the commission, after termination of mining operations or upon
11386 revocation of the permit, or if the Permit Board revokes a permit,
11387 the commission may initiate proceedings against the bond or
11388 deposit filed by the operator. The proceedings shall not be
11389 commenced with respect to a surety bond until the surety has been
11390 given sixty (60) days to commence and a reasonable opportunity to
11391 begin and complete corrective action.

11392 (b) A forfeiture proceeding against any performance
11393 bond or deposit shall be commenced and conducted according to
11394 Sections 49-17-31 through 49-17-41.

11395 (c) If the commission orders forfeiture of any
11396 performance bond or deposit, the entire sum of the performance
11397 bond or deposit shall be forfeited to the department. The funds
11398 from the forfeited performance bond or deposit shall be placed in
11399 the appropriate account in the fund and used to pay for
11400 reclamation of the permit area and remediation of any off-site
11401 damages resulting from the operation. Any surplus performance
11402 bond or deposit funds shall be refunded to the operator or
11403 corporate surety.

11404 (d) Forfeiture proceedings shall be before the
11405 commission and an order of the commission under this subsection is
11406 a final order. If the commission determines that forfeiture of



11407 the performance bond or deposit should be ordered, the department
11408 shall have the immediate right to all funds of any performance
11409 bond or deposit, subject only to review and appeals allowed under
11410 Section 49-17-41.

11411 (e) If the operator cannot be located for purposes of
11412 notice, the department shall send notice of the forfeiture
11413 proceeding, certified mail, return receipt requested, to the
11414 operator's last known address. The department shall also publish
11415 notice of the forfeiture proceeding in a manner as required in
11416 regulation by the commission. Any formal hearing on the bond
11417 forfeiture shall be set at least thirty (30) days after the last
11418 notice publication.

11419 (f) If the performance bond or deposit is insufficient
11420 to cover the costs of reclamation of the permit area in accordance
11421 with the approved reclamation plan or remediation of any off-site
11422 damages, the commission may initiate a civil action to recover the
11423 deficiency amount in the county in which the surface mining
11424 operation is located.

11425 (g) If the commission initiates a civil action under
11426 this section, the commission shall be entitled to any sums
11427 necessary to complete reclamation of the permit area in accordance
11428 with the approved reclamation plan and remediate any off-site
11429 damages resulting from that operation.

11430 (6) If a landowner, upon termination or expiration of a
11431 lease, refuses to allow the operator to enter onto the property



11432 designated as the affected area to conduct or complete reclamation
11433 in accordance with the approved reclamation plan, or if the
11434 landowner interferes with or authorizes a third party to disturb
11435 or interfere with reclamation in accordance with the approved
11436 reclamation plan, the landowner shall assume the permit and shall
11437 file a reclamation plan and post a performance bond as required
11438 under this chapter.

11439 **SECTION 213.** Section 53-11-3, Mississippi Code of 1972, is
11440 brought forward as follows:

11441 53-11-3. (1) It is declared to be in the public interest
11442 for a public purpose and the policy of Mississippi that:

11443 (a) The geologic sequestration of carbon dioxide will
11444 benefit the citizens of the state and the state's environment.

11445 (b) Carbon dioxide is a valuable commodity to the
11446 citizens of the state.

11447 (c) Geologic sequestration of carbon dioxide may allow
11448 for orderly withdrawal as appropriate or necessary, thereby
11449 allowing carbon dioxide to be available for commercial,
11450 industrial, or other uses, including the use of carbon dioxide for
11451 enhanced recovery of oil and gas.

11452 (d) The state has substantial and valuable oil and gas
11453 reserves not producible by traditional recovery techniques, but
11454 which may be producible by enhanced recovery methods.

11455 (e) The enhanced recovery of oil and gas by the
11456 injection of carbon dioxide into oil and gas reservoirs is a



11457 proven enhanced recovery method which results in additional
11458 production of oil and gas in the State of Mississippi and the
11459 sequestration of carbon dioxide.

11460 (f) It is for the public benefit and in the public
11461 interest that the maximum amount of the state's oil and gas
11462 reserves be produced to the extent that it is economically and
11463 technologically feasible.

11464 (g) It is for the public benefit and in the public
11465 interest that, to the extent that it is economically and
11466 technologically feasible, carbon dioxide be injected into and
11467 stored in oil and gas reservoirs and other geologic formations in
11468 a manner protective of waters of the state as defined in Section
11469 49-17-5(f).

11470 (h) Providing at the election of the operator for a
11471 current or former enhanced oil or gas recovery project to qualify
11472 as a geologic sequestration project for the incidental storage of
11473 carbon dioxide will encourage enhanced oil or gas recovery
11474 projects and geologic sequestration projects and will be
11475 beneficial to the citizens of this state and will serve the public
11476 interest.

11477 (i) Geologic sequestration of carbon dioxide is an
11478 emerging industry that has the potential to provide jobs,
11479 investment, and other economic opportunities for the people of
11480 Mississippi, and is a valuable incentive for Mississippi to
11481 attract new industry.



11482 (j) It is the public policy of Mississippi and the
11483 purpose of this chapter to provide for a coordinated statewide
11484 program related to the geologic sequestration of carbon dioxide in
11485 reservoirs defined in this chapter; to provide procedures, in a
11486 manner fair to all interests, for the cooperative management of
11487 surface and subsurface property interests to ensure the maximum
11488 use of natural resources; and to also fulfill the state's primary
11489 responsibility for assuring compliance with the federal Safe
11490 Drinking Water Act, including any amendments thereto related to
11491 the underground injection of carbon dioxide for geologic
11492 sequestration.

11493 (k) It is for the public benefit and in the public
11494 interest to promote projects for the secure geologic storage of
11495 carbon dioxide.

11496 (2) The board shall have jurisdiction and authority over all
11497 persons and property necessary to enforce effectively the
11498 provisions of this chapter relating to the geologic sequestration
11499 of carbon dioxide streams and subsequent withdrawal of stored
11500 carbon dioxide streams. The board, on behalf of the State of
11501 Mississippi, shall seek primacy from the U.S. Environmental
11502 Protection Agency for Class VI underground injection control
11503 wells. The board shall enforce the law pursuant to Section
11504 49-17-1 et seq. and shall serve as the permitting agency for Class
11505 VI underground injection control wells; and is authorized to
11506 promulgate such rules and regulations as are necessary for the



11507 development and administration of the Class VI underground
11508 injection control well program consistent with federal statutes,
11509 rules and regulations pertaining to geologic sequestration of
11510 carbon dioxide streams and assessment of fees for the development
11511 and administration of the Class VI underground injection control
11512 well program. Underground formations or strata used for the
11513 geologic sequestration of carbon dioxide that are not included in
11514 the term "reservoir" as defined in this chapter shall also be
11515 subject to the jurisdiction of the board. The board has primacy
11516 for Class II underground injection control wells and will have
11517 jurisdiction and authority over Class II underground injection
11518 control wells converted to Class VI underground injection control
11519 wells and Class VI underground injection control wells within
11520 reservoirs as defined in this chapter. All rules, regulations and
11521 standards promulgated by the board shall be consistent with the
11522 requirements of federal statutes, rules and regulations related to
11523 Class VI underground injection control wells.

11524 **SECTION 214.** Section 55-7-1, Mississippi Code of 1972, is
11525 brought forward as follows:

11526 55-7-1. Since the continuing and growing economic and
11527 commercial development of navigation, harbor facilities, boat and
11528 related facilities along, in or near the navigable waters of the
11529 state is of general importance to the whole state and should be
11530 encouraged and assisted by legislative enactment, this chapter is
11531 hereby enacted.



11532 **SECTION 215.** Section 55-7-15, Mississippi Code of 1972, is
11533 brought forward as follows:

11534 55-7-15. The bridge and park commission which has acquired
11535 submerged lands, and before such lands have been reclaimed, shall
11536 bring its suit in the chancery court of the county in which such
11537 lands lie, against the state and all the world for confirmation of
11538 the commission's title to such submerged lands, as provided by law
11539 for the confirmation of patents issued by the state. Upon the
11540 hearing of such cause, if the court shall find that the
11541 reclamation of the said lands does not constitute an obstruction
11542 of the navigable waters of the state and does not interfere with
11543 the rights of the public generally to use the navigable waters of
11544 the state for fishing, boating, and other public uses, and that
11545 the reclamation and sale of said lands has or will, in whole or in
11546 part, contribute toward the deepening of a channel or channels for
11547 boats and improvement of navigation of any of the navigable waters
11548 of this state, and that a fair and adequate consideration has been
11549 paid or is to be paid for such property, then the court shall
11550 confirm the title to the property and forever set at rest any
11551 claims by the State of Mississippi in its sovereign capacity as
11552 proprietor of said lands.

11553 Any of the parties of the suit may appeal as in other
11554 proceedings in chancery, provided any interlocutory appeal is
11555 taken within ten (10) days after the rendition of the decree from
11556 which the appeal is desired and provided that any final appeal is



11557 taken within sixty (60) days from the date of the rendition of the
11558 final decree. Any title perfected by a decree in a suit under this
11559 section shall forever estop and preclude the state and other
11560 parties from thereafter questioning the validity of the patent and
11561 deed involved in such proceedings.

11562 **SECTION 216.** Section 57-15-1, Mississippi Code of 1972, is
11563 brought forward as follows:

11564 57-15-1. The Legislature hereby declares that this chapter
11565 is being enacted under the state's inherent general welfare and
11566 police power authority for the broad purposes hereinafter set
11567 forth in an effort to explore, develop, conserve and market the
11568 underwater natural resources of this state, particularly those
11569 lying offshore in the coastal waters of the State of Mississippi.

11570 **SECTION 217.** Section 59-21-3, Mississippi Code of 1972, is
11571 brought forward as follows:

11572 59-21-3. As used in this chapter, unless the context clearly
11573 requires a different meaning:

11574 (a) "Commission" means the Mississippi Commission on
11575 Wildlife, Fisheries and Parks.

11576 (b) "Length" means the length of the vessel measured
11577 from end to end over the deck excluding sheer.

11578 (c) "Livery boat" means any boat for rent or hire.

11579 (d) "Machinery" means inboard and outboard engines and
11580 all other types of motors or mechanical devices.



11581 (e) "Motorboat" means any undocumented vessel propelled
11582 by machinery, whether or not such machinery is the principal
11583 source of propulsion. The term motorboat includes personal
11584 watercraft.

11585 (f) "Operate" means to navigate or otherwise use a
11586 motorboat or vessel.

11587 (g) "Operator" means the person who operates or who has
11588 charge of the navigation or use of a motorboat or a vessel.

11589 (h) "Owner" means the person who claims lawful
11590 possession of a vessel by virtue of legal title or equitable
11591 interest therein which entitles him to such possession.

11592 (i) "Person" means an individual, partnership, firm,
11593 corporation, association or other entity.

11594 (j) "Ships' lifeboats" means lifeboats used solely for
11595 lifesaving purposes and does not include dinghies, tenders,
11596 speedboats, or other type of craft carried aboard a vessel and
11597 used for other than life-saving purposes.

11598 (k) "Undocumented vessel" means any vessel which is not
11599 required to have, and does not have, a valid marine document
11600 issued by the Bureau of Customs.

11601 (l) "Vessel" means every description of watercraft,
11602 other than seaplane on the water, used or capable of being used as
11603 a means of transportation on water.

11604 (m) "Waters of this state" means any waters within the
11605 territorial limits of this state, and the marginal sea adjacent to



11606 this state and the high seas when navigated as a part of a journey
11607 or ride to or from the shore of the state; however, "waters of
11608 this state" does not mean any private pond or lake which is not
11609 used for boat rentals or the charging of fees for fishing therein.

11610 **SECTION 218.** Section 59-21-5, Mississippi Code of 1972, is
11611 brought forward as follows:

11612 59-21-5. All sailboats and every undocumented vessel
11613 equipped with propulsion machinery, whether or not such machinery
11614 is the principal source of propulsion, using the territorial and
11615 navigable waters of the State of Mississippi, and every such
11616 vessel owned in the State of Mississippi and using the high seas
11617 shall be numbered in accordance with this chapter, except:

11618 (* * *a) Foreign vessels temporarily using the
11619 navigable waters of the State of Mississippi;

11620 (* * *b) Public vessels of the United States;

11621 (* * *c) State and municipal vessels used solely for
11622 official business and displaying proper visual identification on
11623 its hull;

11624 (* * *d) Ships' lifeboats;

11625 (* * *e) Vessels designated by the appropriate federal
11626 authority;

11627 (* * *f) Undocumented vessels used exclusively for
11628 racing;

11629 (* * *g) Undocumented vessels operating under valid
11630 temporary certificates of number;



11631 (* * *h) Vessels already covered by a number in full
11632 force and effect awarded pursuant to federal law, or a federally
11633 approved numbering system of another state, provided that such
11634 vessels shall not have been within this state for a period in
11635 excess of sixty (60) days. Nothing in this section shall prohibit
11636 the numbering of any undocumented vessel upon the request of the
11637 owner.

11638 **SECTION 219.** Section 59-21-25, Mississippi Code of 1972, is
11639 brought forward as follows:

11640 59-21-25. (1) Fees for the award of certificates of number
11641 for original, transfer, renewal, livery, dealer and duplicate
11642 shall be as follows:

- 11643 (a) Less than 16 feet.....\$ 7.50
- 11644 (b) 16 feet but less than 26 feet.....\$22.50
- 11645 (c) 26 feet but less than 40 feet.....\$45.00
- 11646 (d) 40 feet and over.....\$45.00
- 11647 (e) Dealer number.....\$37.50
- 11648 (f) Duplicate.....\$ 5.00
- 11649 (g) Boat inspection fee.....\$10.00

11650 (2) The fee provided for under subsection (1)(g) of this
11651 section shall only be charged when the owner of a boat requests
11652 the Department of Wildlife, Fisheries and Parks to perform an
11653 inspection of a boat serial number for the purpose of replacing or
11654 awarding a damaged or removed serial number.



11655 (3) All fees for numbers and renewal of number shall be
11656 payable to the Mississippi Department of Wildlife, Fisheries and
11657 Parks to be deposited by the department in the State Treasury in a
11658 special fund to be designated as the Fisheries and Wildlife Fund,
11659 which shall be disbursed upon the recommendation of the department
11660 as may be appropriated by the Legislature. The State Treasurer
11661 shall release to the department such sums as are required to
11662 defray all administrative costs of the boat registration fee
11663 division of the department and to improve the law enforcement
11664 capability of the department on the inland and marine waters of
11665 the State of Mississippi and as may be budgeted by the department
11666 for the purpose of paying the cost of the administration of this
11667 chapter for education on water safety, improvement of water safety
11668 and motorboating facilities in the state, and advertising and
11669 promoting the waterways of the state. Any and all revenue over
11670 and above the actual administrative cost of implementing this
11671 chapter shall be used to fund salaries of additional conservation
11672 officers in all eighty-two (82) counties.

11673 **SECTION 220.** Section 59-21-51, Mississippi Code of 1972, is
11674 brought forward as follows:

11675 59-21-51. In the case of a boating accident involving
11676 collision, accident or other casualty involving a motorboat or
11677 vessel subject to this chapter, while operated upon the waters of
11678 this state, the operator thereof, if the collision, accident or
11679 other casualty results in death to any person, injury causing any



11680 person to remain incapacitated for a period in excess of
11681 twenty-four (24) hours, or damage to property in excess of one
11682 hundred dollars (\$100.00), shall file, on forms provided, with the
11683 commission an accident report with a full description of the
11684 collision, accident or other casualty, including such other
11685 information as is required under the provisions of this chapter.
11686 The commission shall furnish copies of reports to the appropriate
11687 federal agencies and sheriff of the county in which such accident
11688 or other casualty takes place.

11689 For the purpose of this chapter, a "boating accident" means a
11690 collision, accident or other casualty involving (1) an
11691 undocumented motorboat or (2) any other undocumented vessel used
11692 for pleasure or recreational purposes. A vessel subject to this
11693 chapter is considered to be involved in a "boating accident"
11694 whenever the occurrence results in damage by or to the vessel or
11695 its equipment; in injury or loss of life to any person, or in the
11696 disappearance of any person from on board under circumstances
11697 which indicate the possibility of death or injury. A "boating
11698 accident" includes, but is not limited to, capsizing, collision,
11699 foundering, flooding, fire, explosion and the disappearance of a
11700 vessel other than by theft. A report is required whenever a vessel
11701 subject to this chapter is involved in a "boating accident" which
11702 results in any one or more of the following:

11703 (1) Loss of life.



11704 (2) Injury causing any person to remain incapacitated
11705 for a period in excess of twenty-four (24) hours.

11706 (3) Actual physical damage to property (including
11707 vessels) in excess of one hundred dollars (\$100.00).

11708 **SECTION 221.** Section 59-21-81, Mississippi Code of 1972, is
11709 brought forward as follows:

11710 59-21-81. (1) Every vessel shall have on board a Coast
11711 Guard approved personal flotation device for each person aboard
11712 such vessel, and every person twelve (12) years or younger on
11713 board a motorboat, sailboat, or vessel which measures less than
11714 twenty-six (26) feet in length shall wear a type I, II, or III
11715 Coast Guard approved personal flotation device while such
11716 motorboat, sailboat, or vessel is underway. For the purpose of
11717 this section "underway" shall mean at all times except when a
11718 motorboat, sailboat, or vessel is anchored, moored, or aground.
11719 Every vessel shall have lights during the hours of darkness, which
11720 comply with all federal regulations applicable to vessels of its
11721 classification. Such vessel shall not be operated unless in a
11722 safe and seaworthy condition; the owner and operator shall employ
11723 such safety devices as may be necessary for the safe operation of
11724 such vessel, including an efficient natural or mechanical
11725 ventilating system when necessary for safe operation. In addition
11726 to the requirements imposed by this section, all vessels shall
11727 comply with all federal regulations applicable to vessels of such
11728 classification.



11729 (2) For purposes of this subsection, "personal watercraft"
11730 means a vessel which uses an inboard motor powering a water jet
11731 pump and which is designed to be operated by a person sitting,
11732 standing or kneeling on the vessel, rather than the conventional
11733 manner of sitting or standing inside the vessel. A person shall
11734 not operate a personal watercraft unless each person on board or
11735 being towed behind is wearing a type I, type II or type III,
11736 personal flotation device approved by the United States Coast
11737 Guard.

11738 **SECTION 222.** Section 59-21-83, Mississippi Code of 1972, is
11739 brought forward as follows:

11740 59-21-83. No vessel shall be operated within this state in a
11741 reckless or negligent manner or at a rate of speed greater than is
11742 reasonable and prudent under the then existing circumstances or
11743 when the operator is so physically or mentally incapacitated as to
11744 be incapable of safely operating such vessel, or while the
11745 operator is under the influence of intoxicating liquor or
11746 narcotics, or when such vessel is overloaded beyond its reasonable
11747 carrying capacity. The provisions of this section shall be
11748 applicable to all watercraft operating on the waters of this state
11749 inclusive of, but not limited to, undocumented or unnumbered
11750 vessels and shall specifically include all vessels exempted from
11751 numbering by Section 59-21-5 and surfboards, aquaplanes, airboats,
11752 water skis or other watercraft.



11753 **SECTION 223.** Section 59-21-87, Mississippi Code of 1972, is
11754 brought forward as follows:

11755 59-21-87. No person shall operate a motorboat on any waters
11756 of this state while towing a person on water skis, or on an
11757 aquaplane or similar device, without an observer in the boat in
11758 addition to the operator. Such observer shall be above ten (10)
11759 years of age.

11760 The provisions of the first paragraph of this section do not
11761 apply to a person engaged in a professional exhibition or a person
11762 participating in an official regatta, motorboat race, marine
11763 parade, tournament or exhibition.

11764 No person shall operate or manipulate any motorboat, tow rope
11765 or other device by which the direction or location of water skis,
11766 aquaplane, or similar device may be affected or controlled in such
11767 a way as to cause the water skis, aquaplane, or similar device, or
11768 any person thereon to collide or strike against any object or
11769 person, except slalom buoys, ski jumps or like objects used
11770 normally in competitive or recreational skiing.

11771 **SECTION 224.** Section 59-21-89, Mississippi Code of 1972, is
11772 brought forward as follows:

11773 59-21-89. (1) It is unlawful for any person, other than a
11774 law enforcement officer on duty, to use or display oscillating or
11775 rotating blue lights on a vessel operating on the public waters of
11776 this state. Upon the approach of an authorized law enforcement
11777 vessel operating a strobe, rotating or oscillating blue light or



11778 giving audible signal by siren or both, the operator of a vessel
11779 shall yield the right-of-way and shall stop and remain in position
11780 until the authorized law enforcement vessel has passed, except
11781 when otherwise directed by a law enforcement officer.

11782 (2) A person violating this section is guilty of a
11783 misdemeanor and, upon conviction, shall be punished by a fine of
11784 not less than One Hundred Dollars (\$100.00) nor more than Five
11785 Hundred Dollars (\$500.00).

11786 **SECTION 225.** Section 59-21-111, Mississippi Code of 1972, is
11787 brought forward as follows:

11788 59-21-111. (1) The Mississippi Commission on Wildlife,
11789 Fisheries and Parks shall be the Mississippi Boat and Water Safety
11790 Commission, and shall exercise the duties and responsibilities of
11791 the Mississippi Boat and Water Safety Commission through the
11792 Mississippi Department of Wildlife, Fisheries and Parks, insofar
11793 as practicable under the provisions of Chapter 4 of Title 49,
11794 Mississippi Code of 1972; except on marine waters under the
11795 jurisdiction of the Commission on Marine Resources.

11796 (2) The Commission on Marine Resources shall exercise the
11797 duties and responsibilities of the Mississippi Boat and Water
11798 Safety Commission through the Mississippi Department of Marine
11799 Resources on the marine waters of the state. The Commission on
11800 Marine Resources shall not exercise any powers related to
11801 numbering of undocumented vessels. Those powers are vested
11802 exclusively in the Commission on Wildlife, Fisheries and Parks.



11803 **SECTION 226.** Section 59-21-117, Mississippi Code of 1972, is
11804 brought forward as follows:

11805 59-21-117. (1) The commission shall adopt and promulgate
11806 rules and regulations for the administration and enforcement of
11807 the provisions of this chapter, and to advertise and promote the
11808 fresh waterways of the state.

11809 (2) The Commission on Marine Resources shall adopt and
11810 promulgate rules and regulations for the administration and
11811 enforcement of Sections 59-21-111 through 59-21-129. The
11812 Commission on Marine Resources shall adopt rules and regulations
11813 in accordance with subsections (4) and (5).

11814 (3) The provisions of Sections 59-21-117 through 59-21-127
11815 shall be applicable to all waters of this state that are under the
11816 jurisdiction of the State of Mississippi.

11817 (4) Before any rules and regulations are adopted, the
11818 proposed rules and regulations shall be reduced to writing and a
11819 public hearing shall be held after at least thirty (30) days'
11820 notice of the hearing. The notice shall be published at least one
11821 (1) time in a newspaper of general circulation in this state. A
11822 copy of the proposed rules and regulations shall be furnished to
11823 the sheriff of each county affected at least thirty (30) days
11824 prior to the hearing. The hearing shall be held at a place
11825 convenient to the largest number of owners of vessels affected by
11826 the proposed rules and regulations or, if of general statewide
11827 application, shall be held in the City of Jackson, Mississippi.



11828 (5) A copy of the regulations adopted pursuant to this
11829 section, and amendments thereto, shall be filed in the office of
11830 the commission adopting the regulations and in the office of the
11831 sheriff of each county affected where the same shall be maintained
11832 as a public record. The rules and regulations shall be published
11833 in a convenient form and shall be given to each recipient of an
11834 original, renewed, transferred or a recorded certificate of
11835 number.

11836 **SECTION 227.** Section 59-21-119, Mississippi Code of 1972, is
11837 brought forward as follows:

11838 59-21-119. The commission is hereby authorized to purchase,
11839 operate and maintain such motor vehicles, boats, trailers, motors
11840 and other equipment as may be deemed necessary and proper for the
11841 administration of this chapter. The commission may purchase
11842 property damage insurance on its motor vehicles, boats, trailers,
11843 motors and other equipment, and may expend funds from any
11844 available source for the purpose of obtaining such insurance.

11845 **SECTION 228.** Section 59-21-129, Mississippi Code of 1972, is
11846 brought forward as follows:

11847 59-21-129. (1) Any agency or political subdivision of this
11848 state may make application to the commission for special rules and
11849 regulations with reference to the operation, equipment or safety
11850 of vessels on any waters of this state within its territorial
11851 limits or authorized jurisdiction and shall set forth therein the
11852 reasons which make special rules or regulations necessary or



11853 appropriate. The commission is hereby authorized, after notice
11854 and a public hearing as provided in Section 59-21-117, to make
11855 special rules and regulations with reference to the operation,
11856 equipment or safety of vessels or motorboats on any waters of the
11857 state.

11858 (2) The several counties and municipalities bordering the
11859 Mississippi Sound or the other coastal or tidal waters of this
11860 state are authorized and empowered to adopt ordinances setting out
11861 special rules and regulations with reference to the operation,
11862 equipment, or safety of vessels or motorboats on the Mississippi
11863 Sound or the other coastal or tidal waters of the state within
11864 their territorial limits, and shall set forth therein the reasons
11865 which make special rules and regulations necessary or appropriate.
11866 No ordinance shall conflict with the provisions of this chapter or
11867 with the regulations of any federal agency having jurisdiction
11868 over those waters. Notice shall be given of the proposed
11869 ordinance and a hearing shall be held thereon before the
11870 Commission on Marine Resources as provided in Section 59-21-117,
11871 and as a condition precedent, the Commission on Marine Resources
11872 shall recommend the adoption of the ordinance.

11873 (3) It is the intent of this chapter that uniform
11874 regulations of general application to all the waters of this state
11875 shall be adopted and promulgated wherever practicable, and any
11876 special regulation or local ordinance, as authorized herein, shall
11877 be limited to the exigencies of local conditions which cannot be



11878 corrected by a regulation generally applicable to all the waters
11879 of the state.

11880 **SECTION 229.** Section 59-21-161, Mississippi Code of 1972, is
11881 brought forward as follows:

11882 59-21-161. The acceptance by a nonresident of the right and
11883 privileges of operating a vessel or motorboat on any of the waters
11884 of this state, as evidenced by his operating, either in person or
11885 by agent or employee, a vessel or motorboat upon any of the
11886 navigable waters of this state, shall be deemed equivalent to an
11887 appointment by such nonresident of the secretary of state of the
11888 State of Mississippi to be his true and lawful attorney, upon whom
11889 may be served all lawful processes or summonses in any action or
11890 proceeding against him, growing out of a violation of the
11891 provisions of this chapter, or of any accident in which said
11892 nonresident may be involved while operating a vessel or motorboat
11893 on the navigable waters of the state. Such service of process may
11894 be had in the same manner as is provided by Section 13-3-63, for
11895 the service of process on nonresidents operating motor vehicles
11896 upon the highways of this state, and shall have the same effect.

11897 **SECTION 230.** Section 59-23-7, Mississippi Code of 1972, is
11898 brought forward as follows:

11899 59-23-7. (1) It is unlawful for any person to operate a
11900 watercraft on the public waters of this state who:

11901 (a) Is under the influence of intoxicating liquor;



11902 (b) Is under the influence of any other substance which
11903 has impaired such person's ability to operate a watercraft; or

11904 (c) Has eight one-hundredths percent (.08%) or more by
11905 weight volume of alcohol in the person's blood based upon
11906 milligrams of alcohol per one hundred (100) cubic centimeters of
11907 blood as shown by a chemical analysis of such person's breath,
11908 blood or urine administered as authorized by this chapter.

11909 (2) (a) Upon conviction of any person for the first offense
11910 of violating subsection (1) of this section where chemical tests
11911 provided for under Section 59-23-5 were given, or where chemical
11912 test results are not available, such person shall be fined not
11913 less than Two Hundred Fifty Dollars (\$250.00) nor more than One
11914 Thousand Dollars (\$1,000.00), or imprisoned for not more than
11915 twenty-four (24) hours in jail, or both; and the court shall order
11916 such person to attend and complete a boating safety education
11917 course developed by the Department of Wildlife, Fisheries and
11918 Parks.

11919 (b) Upon any second conviction of any person violating
11920 subsection (1) of this section, the offenses being committed
11921 within a period of five (5) years, the person shall be fined not
11922 less than Six Hundred Dollars (\$600.00) nor more than One Thousand
11923 Dollars (\$1,000.00) and shall be imprisoned not less than
11924 forty-eight (48) consecutive hours nor more than one (1) year or
11925 sentenced to community service work for not less than ten (10)



11926 days nor more than one (1) year. The court shall order the person
11927 not to operate a watercraft for one (1) year.

11928 (c) For any third conviction of any person violating
11929 subsection (1) of this section, the offenses being committed
11930 within a period of five (5) years, the person shall be fined not
11931 less than Eight Hundred Dollars (\$800.00) nor more than One
11932 Thousand Dollars (\$1,000.00) and shall be imprisoned not less than
11933 thirty (30) days nor more than one (1) year. The court shall
11934 order the person not to operate a watercraft for two (2) years.

11935 (d) Any fourth or subsequent violation of subsection
11936 (1) of this section shall be a felony offense and, upon
11937 conviction, the offenses being committed within a period of five
11938 (5) years, the person shall be fined not less than Two Thousand
11939 Dollars (\$2,000.00) nor more than Five Thousand Dollars
11940 (\$5,000.00) and shall be imprisoned not less than ninety (90) days
11941 nor more than five (5) years in the custody of the Department of
11942 Corrections. The court shall order the person not to operate a
11943 watercraft for three (3) years.

11944 (3) Any person convicted of operating any watercraft in
11945 violation of subsection (1) of this section where the person (a)
11946 refused a law enforcement officer's request to submit to a
11947 chemical test, or (b) was unconscious at the time of a chemical
11948 test and refused to consent to the introduction of the results of
11949 such test in any prosecution, shall be punished consistent with
11950 the penalties prescribed herein for persons submitting to the test



11951 and the court shall order the person not to operate a watercraft
11952 for the time periods specified in subsection (2) of this section.

11953 (4) Any person who operates any watercraft in violation of
11954 the provisions of subsection (1) of this section and who in a
11955 negligent manner causes the death of another or mutilates,
11956 disfigures, permanently disables or destroys the tongue, eye, lip,
11957 nose or any other member or limb of another shall, upon
11958 conviction, be guilty of a felony and shall be committed to the
11959 custody of the Department of Corrections for a period of time not
11960 to exceed ten (10) years.

11961 (5) Upon conviction of any violation of subsection (1) of
11962 this section, the judge shall cause a copy of the citation and any
11963 other pertinent documents concerning the conviction to be sent
11964 immediately to the Mississippi Department of Wildlife, Fisheries
11965 and Parks and the Department of Marine Resources. A copy of the
11966 citation or other pertinent documents, having been attested as
11967 true and correct by the Director of the Mississippi Department of
11968 Wildlife, Fisheries and Parks, or his designee, or the Director of
11969 the Department of Marine Resources, or his designee, shall be
11970 sufficient proof of the conviction for purposes of determining the
11971 enhanced penalty for any subsequent convictions of violations of
11972 subsection (1) of this section.

11973 (6) The provisions of this section are fully applicable to
11974 any person who is under the influence of medical cannabis that is
11975 lawful under the Mississippi Medical Cannabis Act and in



11976 compliance with rules and regulations adopted thereunder which has
11977 impaired the person's ability to operate a watercraft.

11978 **SECTION 231.** Section 59-25-3, Mississippi Code of 1972, is
11979 brought forward as follows:

11980 59-25-3. (1) Any owner of a vessel principally operated on
11981 the waters of the state and required to be numbered may apply to
11982 the department for a certificate of title for the vessel or the
11983 motor.

11984 (2) (a) The application shall contain the name and mailing
11985 address of the owner, and the names and addresses of all persons
11986 having any liens or encumbrances upon the vessel or motor in the
11987 order of their priority. The application shall contain the
11988 signatures of all owners certifying that statements made are true
11989 and correct to the best of the applicant's knowledge, information
11990 and belief, under penalty of perjury.

11991 (b) Every application for a certificate of title shall
11992 contain a description of the vessel or motor to be titled,
11993 including the state certificate of number (if previously
11994 assigned), hull length, type and principal material of
11995 construction, model year, the date of purchase, hull
11996 identification number, manufacturer, horse power, serial number
11997 and the name and address of the person from whom the vessel or
11998 motor was purchased. The application shall contain the date of
11999 sale and gross purchase price of the vessel or motor, or the fair
12000 market value if no sale immediately preceded the transfer and any



12001 additional information the department requires. If the
12002 application is made for a vessel or motor previously registered or
12003 titled in another state or foreign country, it shall contain this
12004 information. The application shall be on forms prescribed and
12005 furnished by the department and shall contain any other
12006 information required by the department.

12007 (3) If a dealer buys or acquires a used numbered vessel or
12008 motor for resale, he shall report the acquisition to the
12009 department on forms the department provides, or he may apply for
12010 and obtain a certificate of title as provided in this chapter. If
12011 a dealer acquires a new vessel or motor requiring titling for
12012 resale, he may apply for and obtain a certificate of title as
12013 provided in this chapter.

12014 Every dealer transferring a vessel or motor requiring
12015 titling, as determined by the department, shall assign the title
12016 to the new owner, or in the case of a new vessel or motor assign
12017 either the certificate of origin or, if titled, the title.

12018 (4) No person may sell, assign or transfer a vessel or motor
12019 titled by the department without delivering to the purchaser or
12020 transferee a certificate of title with an assignment on it showing
12021 title in the purchaser or transferee's name. No person may
12022 purchase or otherwise acquire a vessel or motor titled by the
12023 department without obtaining a certificate of title for it in his
12024 name.



12025 (5) Every certificate of title shall contain the owner's
12026 name; the address of the principal place of residence of an
12027 individual owner and the address of the principal place of
12028 business of an owner that is not an individual, including zip
12029 code; date of title issuance; vessel or motor description,
12030 including the vessel or motor identification number as described
12031 in 33 CFR 187.05, name of manufacturer or model, year built or the
12032 model year, vessel length, vessel type, drive or propulsion type,
12033 motor horsepower, vessel use, hull material and fuel type; each
12034 lienholder's name and address; recording or perfection date of new
12035 liens and original recording date of any liens outstanding; and
12036 other items as required by the department. Space must also be
12037 provided for assignment of interest, with a certification that
12038 statements provided on the title assignment are true and correct
12039 to the best of the owner's knowledge, under penalty of perjury.

12040 (6) The department shall retain the evidence used to
12041 establish the accuracy of the information required for titling
12042 purposes, and shall maintain a record of any certificate of title
12043 it issues.

12044 **SECTION 232.** Section 61-3-15, Mississippi Code of 1972, is
12045 brought forward as follows:

12046 61-3-15. An authority shall have all the powers necessary or
12047 convenient to carry out the purposes of this chapter (excluding
12048 the power to levy and collect taxes or special assessments)
12049 including, but not limited to, the power:



12050 (a) To sue and be sued, to have a seal and to have
12051 perpetual succession.

12052 (b) To purchase general liability insurance coverage,
12053 including errors and omissions insurance, for its officials and
12054 employees.

12055 (c) To employ an executive director, secretary,
12056 technical experts, and such other officers, agents and employees,
12057 permanent and temporary, as it may require, and to determine their
12058 qualifications and duties, and to establish compensation and other
12059 employment benefits as may be advisable to attract and retain
12060 proficient personnel. For regional airport authorities organized
12061 under Section 61-3-7, such employment benefits may include payment
12062 for all or part of dependent health insurance coverage.

12063 (d) To execute such contracts and other instruments and
12064 take such other action as may be necessary or convenient to carry
12065 out the purposes of this chapter.

12066 (e) To plan, establish, develop, construct, enlarge,
12067 improve, maintain, equip, operate, regulate and protect airports
12068 and air navigation facilities within this state and within any
12069 adjoining state, including the acquisition, lease, lease-purchase,
12070 construction, installation, equipment, maintenance and operation
12071 of such airports or buildings, equipment and other facilities or
12072 other property for the servicing of aircraft or for the comfort
12073 and accommodation of air travelers or for any other purpose deemed
12074 by the authority to be necessary to carry out its duties; to



12075 develop, operate, manage or own and maintain intermodal facilities
12076 to serve air and surface cargo and multimodal facilities to serve
12077 highway and rail passenger transportation needs to ensure
12078 interface and interaction between modes for cargo and passengers;
12079 to construct, improve, and maintain means of ingress and egress to
12080 airport properties from and over off-airport sites with approval
12081 of the city or county in which the off-airport site is located; to
12082 market, promote and advertise airport properties, goods and
12083 services; and to directly purchase and sell supplies, goods and
12084 commodities incident to the operation of its airport properties
12085 without having to make purchases thereof through the municipal
12086 governing authorities, and with the authority to utilize
12087 design-build and construction manager at-risk methods of
12088 construction in accordance with Sections 31-7-13.1 and 31-7-13.2.
12089 For all the previously stated purposes, an authority may, by
12090 purchase, gift, devise, lease, eminent domain proceedings or
12091 otherwise, acquire property, real or personal, or any interest
12092 therein, including easements in airport hazards or land outside
12093 the boundaries of an airport or airport site, as are necessary to
12094 permit the removal, elimination, obstruction-marking or
12095 obstruction-lighting of airport hazards, to prevent the
12096 establishment of airport hazards or to carry out its duties.
12097 (f) To acquire, by purchase, gift, devise, lease,
12098 lease-purchase, eminent domain proceedings or otherwise, existing
12099 airports and air navigation facilities. However, an authority



12100 shall not acquire or take over any airport or air navigation
12101 facility owned or controlled by another authority, a municipality
12102 or public agency of this or any other state without the consent of
12103 such authority, municipality or public agency.

12104 (g) To establish or acquire and maintain airports in,
12105 over and upon any public waters of this state, and any submerged
12106 lands under such public waters, and to construct and maintain
12107 terminal buildings, landing floats, causeways, roadways and
12108 bridges for approaches to or connecting with any such airport, and
12109 landing floats and breakwaters for the protection thereof.

12110 (h) To establish, enact and enforce ordinances, rules,
12111 regulations and standards for public safety, aviation safety,
12112 airport operations and the preservation of good order and peace of
12113 the authority; to prevent injury to, destruction of or
12114 interference with public or private property; to protect property,
12115 health and lives and to enhance the general welfare of the
12116 authority by restricting the movements of citizens or any group
12117 thereof on the property of the authority when there is imminent
12118 danger to the public safety because of freedom of movement
12119 thereof; to regulate the entrances to property and buildings of
12120 the authority and the way of ingress and egress to and from the
12121 same; to establish fire limits and to hire firemen, including
12122 aircraft fire and rescue and similar personnel, and to establish
12123 and equip a fire department to provide fire and other emergency
12124 services on any property of the authority; to regulate, restrain



12125 or prohibit construction failing to meet standards established by
12126 the authority; to appoint and discharge police officers with
12127 jurisdiction limited to property of the airport authority and
12128 authorization to enforce the ordinances, rules and regulations of
12129 the authority, as well as the laws of the State of Mississippi,
12130 and to issue citations for infractions of all of such ordinances,
12131 rules, regulations, standards and laws of the State of Mississippi
12132 returnable to the court of appropriate jurisdiction.

12133 (i) To develop and operate an industrial park or parks
12134 and exercise all authority provided for under Chapter 7, Title 57,
12135 Mississippi Code of 1972.

12136 (j) To attach, pursuant to the power and procedure set
12137 forth in Chapter 33, Title 11, Mississippi Code of 1972, the
12138 equipment of debtors of the authority.

12139 (k) To enter into agreements with local governments
12140 pursuant to Section 17-13-1 et seq.

12141 (l) To render emergency assistance to other airports
12142 within the United States at an aggregate cost of less than Twenty
12143 Thousand Dollars (\$20,000.00) per emergency. The assistance
12144 authorized in this paragraph must be rendered within ninety (90)
12145 days after a state of emergency has been declared by the federal
12146 government, or by the local or state government that has
12147 jurisdiction over the area where the airport needing assistance is
12148 located.



12149 (m) To enter into joint use or similar agreements with
12150 any department or agency of the United States of America or
12151 the State of Mississippi, including any military department
12152 of the United States of America or the State of Mississippi,
12153 with respect to the use and operation of, or services
12154 provided at, any airport or other property of the authority
12155 on the terms and conditions as the authority may deem
12156 appropriate, including provisions limiting the liability of
12157 the United States of America or the State of Mississippi for
12158 loss or damage to the authority if the authority determines
12159 that the limitation of liability is reasonable, necessary
12160 and appropriate under the circumstances.

12161 (n) To enter into mutual aid agreements with counties
12162 and municipalities for reciprocal emergency aid and assistance in
12163 case of emergencies too extensive to be dealt with unassisted; to
12164 participate in the Statewide Mutual Aid Compact (SMAC) in
12165 accordance with Section 33-15-19.

12166 **SECTION 233.** Section 61-21-3, Mississippi Code of 1972, is
12167 brought forward as follows:

12168 61-21-3. As used in this act, the following terms shall have
12169 the meanings herein ascribed unless the context clearly indicates
12170 otherwise:

12171 (a) "Airspace" means the space above the land and
12172 waters of this state.



12173 (b) "Uncrewed aircraft" means an aircraft that is
12174 operated without the possibility of direct human intervention from
12175 within or on the aircraft.

12176 (c) "Uncrewed aircraft system" means an uncrewed
12177 aircraft and associated elements, including communication links
12178 and the components that control the uncrewed aircraft, that are
12179 required for the pilot in command to operate safely and
12180 efficiently in the national airspace system.

12181 **SECTION 234.** Section 69-27-3, Mississippi Code of 1972, is
12182 brought forward as follows:

12183 69-27-3. It is hereby declared, as a matter of legislative
12184 determination:

12185 (a) The condition. - That good soil and usable water
12186 are essential to the success of agricultural activities in the
12187 State of Mississippi; that our farms, forests and grazing lands
12188 are among the basic assets of the state; and that the preservation
12189 of these lands and usable waters is necessary to protect and
12190 promote the health, safety and prosperity of the people.
12191 That improper land usage causes the breaking of natural cover, and
12192 results in serious soil erosion of the farms, forests and grazing
12193 lands by uncontrolled waters; that erosion feeds itself, causing
12194 an accelerated washing of sloping fields and pastures, speeding up
12195 with the removal of absorptive topsoil, causing exposure of less
12196 absorptive and less protective but more erodible subsoil; that
12197 failure by any landowner or operator to conserve the soil and



12198 water and control erosion upon his lands causes a washing of soil
12199 from his lands onto other lands and makes the conservation of soil
12200 and water and control of erosion on such other lands difficult or
12201 impossible; that good soil and water usage is possible only
12202 through joint actions of farmers, ranchers and foresters made
12203 possible through legislative action.

12204 (b) The consequences. - That the consequences of such
12205 soil erosion in the form of soil-washing are the silting and
12206 sedimentation of stream channels, reservoirs, dams, ditches, and
12207 harbors and the movement of silt into creeks, rivers, ponds, lakes
12208 and bayous contributing to the pollution of the surface waters of
12209 the state; the piling up of soil on lower slopes, and its deposit
12210 over alluvial plains; the reduction in productivity or outright
12211 ruin of rich bottom lands by overwash of poor subsoil material,
12212 sand, and gravel swept out of the hills; deterioration of soil and
12213 its fertility, deterioration of crops grown thereon, and declining
12214 acre yields despite development of scientific process for
12215 increasing such yields; loss of soil and water which causes
12216 destruction of food and cover for wildlife; a washing of soil into
12217 streams which silts over spawning beds, and destroys water plants,
12218 diminishing the food supply of fish; a diminishing of the
12219 underground and surface water reserve, which causes water
12220 shortages, intensifies periods of drought and causes crop
12221 failures; and increase in the speed and volume of rainfall runoff,
12222 causing severe and increasing floods, which bring suffering,



12223 disease, and death; impoverishment of families attempting to farm
12224 eroding and eroded lands; damage to roads, highways, railways,
12225 farm buildings and other property from floods; and losses in
12226 navigation, hydro-electric power, municipal water supply, farming
12227 and grazing. Other consequences are the loss of surface soil and
12228 water because of the denuding of the forests, and the abuse and
12229 erosion of sloping lands; the declining mean low flow of the
12230 rivers reducing the amount of surface water available seasonally
12231 for beneficial use; the decrease in effectiveness and decline of
12232 ground water reaching aquifers which provide a source of water for
12233 beneficial use; and the increase in rates of runoff from sloping
12234 land, adding to flood damage of the flood plains and valleys of
12235 the state; all adding to the drainage problem.

12236 (c) The appropriate corrective methods. - That to
12237 conserve soil and water resources and control and prevent soil
12238 erosion, it is necessary that practices contributing to soil and
12239 water wastage and soil erosion be discouraged and discontinued,
12240 and appropriate water and soil conserving practices be adopted and
12241 carried out; that among the procedures necessary for widespread
12242 adoption, are the carrying on of engineering operations such as
12243 the construction of terraces, terrace outlets, check dams, dikes,
12244 ponds, lakes, ditches, and the like; the utilization of strip
12245 cropping, lister furrowing, contour cultivating, and contour
12246 furrowing; seeding and planting of waste, sloping, abandoned, or
12247 eroded lands to water-conserving and erosion-preventing plants,



12248 trees, and grasses; afforestation and reforestation; rotation of
12249 crops; soil stabilization with trees, grasses, legumes, and other
12250 thick-growing, soil-holding crops, retardation of runoff by
12251 increasing absorption of rainfall; and retirement from cultivation
12252 of steep, highly erodible areas and areas now badly gullied or
12253 otherwise eroded.

12254 (d) Declaration of policy. - It is hereby declared to
12255 be the policy of the legislature to provide for the conservation
12256 of the water and soil resources of this state, and for the control
12257 and prevention of soil erosion, and thereby to preserve natural
12258 resources, control floods, prevent impairment of dams and
12259 reservoirs, assist in maintaining the navigability of rivers and
12260 harbors, preserve wildlife, protect the tax base, protect public
12261 lands, and protect and promote the health, safety, prosperity, and
12262 general welfare of the people of this state.

12263 It is further declared to be the policy of the legislature to
12264 alleviate and prevent flood damage; to conserve the waters of the
12265 state through improvement and cover, and through impoundments and
12266 effective use for various beneficial purposes; to develop private
12267 lands and waters of the state for recreational purposes; to
12268 promulgate soil and water conservation practices and measures
12269 which beautify the landscape, and promote the economic welfare of
12270 communities, counties, and areas of the state; and to provide
12271 leadership through soil and water conservation districts to other
12272 governmental agencies, departments and private groups in the



12273 promotion of the conservation of land, water, and related
12274 resources.

12275 **SECTION 235.** Section 71-3-5, Mississippi Code of 1972, is
12276 brought forward as follows:

12277 71-3-5. The following shall constitute employers subject to
12278 the provisions of this chapter:

12279 Every person, firm and private corporation, including any
12280 public service corporation but excluding, however, all nonprofit
12281 charitable, fraternal, cultural, or religious corporations or
12282 associations, that have in service five (5) or more workmen or
12283 operatives regularly in the same business or in or about the same
12284 establishment under any contract of hire, express or implied.

12285 Any state agency, state institution, state department, or
12286 subdivision thereof, including counties, municipalities and school
12287 districts, or the singular thereof, not heretofore included under
12288 the Workers' Compensation Law, may elect, by proper action of its
12289 officers or department head, to come within its provisions and, in
12290 such case, shall notify the commission of such action by filing
12291 notice of compensation insurance with the commission. Payment for
12292 compensation insurance policies so taken may be made from any
12293 appropriation or funds available to such agency, department or
12294 subdivision thereof, or from the general fund of any county or
12295 municipality.

12296 From and after July 1, 1990, all offices, departments,
12297 agencies, bureaus, commissions, boards, institutions, hospitals,



12298 colleges, universities, airport authorities or other
12299 instrumentalities of the "state" as such term is defined in
12300 Section 11-46-1, Mississippi Code of 1972, shall come under the
12301 provisions of the Workers' Compensation Law. Payment for
12302 compensation insurance policies so taken may be made from any
12303 appropriation or funds available to such office, department,
12304 agency, bureau, commission, board, institution, hospital, college,
12305 university, airport authority or other instrumentality of the
12306 state.

12307 From and after October 1, 1990, counties and municipalities
12308 shall come under the provisions of the Workers' Compensation Law.
12309 Payment for compensation insurance policies so taken may be made
12310 from any funds available to such counties and municipalities.

12311 From and after October 1, 1993, all "political subdivisions,"
12312 as such term is defined in Section 11-46-1, Mississippi Code of
12313 1972, except counties and municipalities shall come under the
12314 provisions of the Workers' Compensation Law. Payment for
12315 compensation insurance policies so taken may be made from any
12316 funds available to such political subdivisions.

12317 From and after July 1, 1988, the "state" as such term is
12318 defined in Section 11-46-1, Mississippi Code of 1972, may elect to
12319 become a self-insurer under the provisions elsewhere set out by
12320 law, by notifying the commission of its intent to become a
12321 self-insurer. The cost of being such a self-insurer, as provided
12322 otherwise by law, may be paid from funds available to the offices,



12323 departments, agencies, bureaus, commissions, boards, institutions,
12324 hospitals, colleges, universities, airport authorities or other
12325 instrumentalities of the state.

12326 The Mississippi Transportation Commission, the Department of
12327 Public Safety and the Mississippi Industries for the Blind may
12328 elect to become self-insurers under the provisions elsewhere set
12329 out by law by notifying the commission of their intention of
12330 becoming such a self-insurer. The cost of being such a
12331 self-insurer, as provided elsewhere by law, may be paid from funds
12332 available to the Mississippi Transportation Commission, the
12333 Department of Public Safety or the Mississippi Industries for the
12334 Blind.

12335 The Mississippi State Senate and the Mississippi House of
12336 Representatives may elect to become self-insurers under provisions
12337 elsewhere set out by law by notifying the commission of their
12338 intention of becoming such self-insurers. The cost of being such
12339 self-insurers, as provided elsewhere by law, may be paid from
12340 funds available to the Mississippi State Senate and the
12341 Mississippi House of Representatives. The Mississippi State
12342 Senate and the Mississippi House of Representatives are authorized
12343 and empowered to provide workers' compensation benefits for
12344 employees after January 1, 1970.

12345 Any municipality of the State of Mississippi having forty
12346 thousand (40,000) population or more desiring to do so may elect
12347 to become a self-insurer under provisions elsewhere set out by law



12348 by notifying the commission of its intention of becoming such an
12349 insurer. The cost of being such a self-insurer, as provided
12350 elsewhere by law, may be provided from any funds available to such
12351 municipality.

12352 The commission may, under such rules and regulations as it
12353 prescribes, permit two (2) or more "political subdivisions," as
12354 such term is defined in Section 11-46-1, Mississippi Code of 1972,
12355 to pool their liabilities to participate in a group workers'
12356 compensation self-insurance program. The governing authorities of
12357 any political subdivision may authorize the organization and
12358 operation of, or the participation in such a group self-insurance
12359 program with other political subdivisions, provided such program
12360 is approved by the commission. The cost of participating in a
12361 group self-insurance program may be provided from any funds
12362 available to a political subdivision.

12363 Domestic servants, farmers and farm labor are not included
12364 under the provisions of this chapter, but this exemption does not
12365 apply to the processing of agricultural products when carried on
12366 commercially. Any purchaser of timber products shall not be
12367 liable for workers' compensation for any person who harvests and
12368 delivers timber to such purchaser if such purchaser is not liable
12369 for unemployment tax on the person harvesting and delivering the
12370 timber as provided by United States Code Annotated, Title 26,
12371 Section 3306, as amended. Provided, however, nothing in this
12372 section shall be construed to exempt an employer who would



12373 otherwise be covered under this section from providing workers'
12374 compensation coverage on those employees for whom he is liable for
12375 unemployment tax.

12376 Employers exempted by this section may assume, with respect
12377 to any employee or classification of employees, the liability for
12378 compensation imposed upon employers by this chapter with respect
12379 to employees within the coverage of this chapter. The purchase
12380 and acceptance by such employer of valid workers' compensation
12381 insurance applicable to such employee or classification of
12382 employees shall constitute, as to such employer, an assumption by
12383 him of such liability under this chapter without any further act
12384 on his part notwithstanding any other provisions of this chapter,
12385 but only with respect to such employee or such classification of
12386 employees as are within the coverage of the state fund. Such
12387 assumption of liability shall take effect and continue from the
12388 effective date of such workers' compensation insurance and as long
12389 only as such coverage shall remain in force, in which case the
12390 employer shall be subject with respect to such employee or
12391 classification of employees to no other liability than the
12392 compensation as provided for in this chapter.

12393 An owner/operator, and his drivers, must provide a
12394 certificate of insurance of workers' compensation coverage to the
12395 motor carrier or proof of coverage under a self-insured plan or an
12396 occupational accident policy. Any such occupational accident
12397 policy shall provide a minimum of One Million Dollars



12398 (\$1,000,000.00) of coverage. Should the owner/operator fail to
12399 provide written proof of coverage to the motor carrier, then the
12400 owner/operator, and his drivers, shall be covered under the motor
12401 carrier's workers' compensation insurance program and the motor
12402 carrier is authorized to collect payment of the premium from the
12403 owner/operator. In the event that coverage is obtained by the
12404 owner/operator under a workers' compensation policy or through a
12405 self-insured or occupational accident policy, then the
12406 owner/operator, and his drivers, shall not be entitled to benefits
12407 under the motor carrier's workers' compensation insurance program
12408 unless the owner/operator has elected in writing to be covered
12409 under the carrier's workers' compensation program or policy or if
12410 the owner/operator is covered by the carrier's plan because he
12411 failed to obtain coverage. Coverage under the motor carrier's
12412 workers' compensation insurance program does not terminate the
12413 independent contractor status of the owner/operator under the
12414 written contract or lease agreement. Nothing shall prohibit or
12415 prevent an owner/operator from having or securing an occupational
12416 accident policy in addition to any workers' compensation coverage
12417 authorized by this section. Other than the amendments to this
12418 section by Chapter 523, Laws of 2006, the provisions of this
12419 section shall not be construed to have any effect on any other
12420 provision of law, judicial decision or any applicable common law.



12421 This chapter shall not apply to transportation and maritime
12422 employments for which a rule of liability is provided by the laws
12423 of the United States.

12424 This chapter shall not be applicable to a mere direct
12425 buyer-seller or vendor-vendee relationship where there is no
12426 employer-employee relationship as defined by Section 71-3-3, and
12427 any insurance carrier is hereby prohibited from charging a premium
12428 for any person who is a seller or vendor rather than an employee.

12429 Any employer may elect, by proper and written action of its
12430 own governing authority, to be exempt from the provisions of the
12431 Workers' Compensation Law as to its sole proprietor, its partner
12432 in a partnership or to its employee who is the owner of fifteen
12433 percent (15%) or more of its stock in a corporation, if such sole
12434 proprietor, partner or employee also voluntarily agrees thereto in
12435 writing. Any sole proprietor, partner or employee owning fifteen
12436 percent (15%) or more of the stock of his/her corporate employer
12437 who becomes exempt from coverage under the Workers' Compensation
12438 Law shall be excluded from the total number of workers or
12439 operatives toward reaching the mandatory coverage threshold level
12440 of five (5).

12441 **SECTION 236.** Section 79-21-5, Mississippi Code of 1972, is
12442 brought forward as follows:

12443 79-21-5. As used in this chapter:



12444 (a) The term "member" shall include actual members of
12445 associations without capital stock and holders of common stock in
12446 associations organized with capital stock.

12447 (b) The term "person" shall include individuals, firms,
12448 partnerships, corporations and associations.

12449 (c) The term "association" means any association
12450 organized under the terms of this chapter.

12451 (d) The term "aquatic product" shall include all
12452 commercial products of aquatic life normally found in, or
12453 associated with, the fresh waters of the State of Mississippi, or
12454 the United States. It shall specifically include, but is not
12455 limited to, domesticated fish, fish of all species, and their
12456 byproducts, normally found in fresh water.

12457 (e) The term "commercial fishing" shall include all
12458 persons engaged totally or part-time in the business of catching
12459 or otherwise taking aquatic products from the fresh waters of the
12460 State of Mississippi, or the United States, for commercial
12461 purposes.

12462 (f) The term "domestic fish farming" shall include all
12463 persons engaged in the growing, managing, harvesting and/or
12464 marketing of domesticated fish as a cultivated crop in privately
12465 owned waters.

12466 (g) The term "domesticated fish" shall be understood to
12467 mean any fish that are spawned and grown, managed, harvested and



12468 marketed on an annual, semiannual, biennial, or short-term basis
12469 in privately owned waters.

12470 (h) The term "producer" shall mean any person engaged
12471 totally, or part-time, in the business of commercial fishing or
12472 domestic fish farming for the commercial purpose of providing
12473 aquatic products to consumers.

12474 **SECTION 237.** Section 79-21-53, Mississippi Code of 1972, is
12475 brought forward as follows:

12476 79-21-53. As used in Sections 79-21-51 through 79-21-67,
12477 Mississippi Code of 1972:

12478 (a) The term "member" shall include actual members of
12479 associations without capital stock and holders of common stock in
12480 associations organized with capital stock.

12481 (b) The term "person" shall include individuals, firms,
12482 partnerships, corporations and associations.

12483 (c) The term "association" means any association
12484 organized under the terms of Sections 79-21-51 through 79-21-67,
12485 Mississippi Code of 1972.

12486 (d) The term "aquatic product" shall include all
12487 commercial products of aquatic life normally found in, or
12488 associated with, the salt waters of the State of Mississippi or
12489 the United States. It shall specifically include, but is not
12490 limited to, shellfish, domesticated fish, fish of all species, and
12491 their by-products, normally found in salt water.



12492 (e) The term "commercial fishing" shall include all
12493 persons engaged totally or part-time in the business of catching
12494 freezing, marketing, processing, transporting, wholesaling or
12495 otherwise involved in the utilization of aquatic products from the
12496 salt waters of the State of Mississippi or the United States for
12497 commercial purposes.

12498 (f) The term "domestic fish farming" shall include all
12499 persons engaged in the growing, managing, harvesting and/or
12500 marketing of domesticated fish or shellfish as a cultivated crop
12501 in privately owned or leased waters or submerged lands.

12502 (g) The term "domesticated fish" means any fish or
12503 shellfish that are spawned and grown, managed, harvested and
12504 marketed on an annual, semiannual, biennial, or short-term basis
12505 in privately owned or leased waters or submerged lands.

12506 (h) The term "producer" means any person engaged
12507 totally, or part-time, in the business of commercial fishing or
12508 domestic fish farming for the commercial purpose of providing
12509 aquatic products to consumers.

12510 **SECTION 238.** Section 89-17-9, Mississippi Code of 1972, is
12511 brought forward as follows:

12512 89-17-9. Whenever any person shall desire to claim
12513 compensation for any salvage service rendered by him in reclaiming
12514 and protecting from loss, damage, injury or destruction, any saw
12515 log, sawn or hewn timber, lumber, boat or other water craft, or
12516 other floatable thing of value, that may have become derelict, in



12517 any of the waters of this state or in the beds or on the shores
12518 thereof, or for compensation for the preservation thereof, such
12519 finder, salvor, or person raising or floating such property, shall
12520 file a petition for compensation in the circuit court of the
12521 county in which such property shall be found, raised or floated,
12522 or salvaged. In the petition he shall set forth a full and
12523 particular description of the property found, raised or floated,
12524 or salvaged, containing all names, letters or other marks of
12525 identification appearing thereon, and in the petition he shall
12526 also set forth the facts constituting his claim for compensation,
12527 and the amount claimed by him for such service, and shall also
12528 state the name of the owner of the property, if known to the
12529 petitioner, and his place of residence and post-office address.
12530 Said owner shall be made a party defendant thereto, and if the
12531 owner be unknown, all persons having or claiming any interest in
12532 the property shall be made parties defendant, and the petition
12533 shall be sworn to. Immediately upon the filing of such petition,
12534 the petitioner shall deliver to the sheriff of the county the
12535 property described in the petition to be dealt with as hereinafter
12536 provided in Section 89-17-17.

12537 **SECTION 239.** Section 89-17-25, Mississippi Code of 1972, is
12538 brought forward as follows:

12539 89-17-25. If any person shall convert to his own use, sell
12540 or otherwise dispose of any saw log, sawn or hewn timber, lumber,
12541 boat, or other watercraft, or other floatable thing of value not



12542 belonging to him, which may have come into his possession while
12543 floating as derelict, in any of the waters of the State of
12544 Mississippi, or which may theretofore have been sunken and raised
12545 or floated from such sunken condition by him or others, or which
12546 he or others may have found cast upon the shores of the Gulf of
12547 Mexico, or Mississippi Sound, in the State of Mississippi, or any
12548 bay, inlet, or bayou, emptying into same, or upon the shore of any
12549 other watercourse in the State of Mississippi, he shall be guilty
12550 of a misdemeanor * * * and, on conviction, shall be punished by a
12551 fine of not less than double the value of the property converted,
12552 sold or disposed of, or by imprisonment in the county jail for a
12553 term not exceeding six (6) months.

12554 **SECTION 240.** Section 97-15-30, Mississippi Code of 1972, is
12555 brought forward as follows:

12556 97-15-30. (1) For purposes of this section the term
12557 "commercial purpose" means for the purpose of economic gain.

12558 (2) (a) Except as authorized by law or permit, it is
12559 unlawful for any person to throw, scatter, spill or place, or
12560 cause to be thrown, scattered, spilled, or placed, or otherwise
12561 disposed of, any solid waste in any of the following manners or
12562 amounts:

12563 (i) In or on any public highway, road, street,
12564 alley or thoroughfare, including any portion of the right-of-way
12565 thereof, or any other public lands, except in containers or areas
12566 lawfully provided therefor. When any solid waste is thrown or



12567 discarded from a motor vehicle, the operator or owner of the motor
12568 vehicle, or both, shall be deemed in violation of this section;

12569 (ii) In or on any waters of the state. When any
12570 solid waste is thrown or discarded from a vessel, the operator or
12571 owner of the boat, or both, shall be deemed in violation of this
12572 section; or

12573 (iii) In or on any private property, unless prior
12574 written consent of the owner has been given and the solid waste
12575 will not cause a public nuisance or be in violation of any other
12576 state or local law, rule or regulation;

12577 (iv) Raw human waste from any train, aircraft,
12578 motor vehicle or vessel upon the public or private lands or waters
12579 of the state.

12580 (b) Nothing in this section shall prohibit acts
12581 authorized pursuant to Section 17-17-13.

12582 (3) (a) Any person who violates this section in an amount
12583 not exceeding fifteen (15) pounds in weight or twenty-seven (27)
12584 cubic feet in volume and not for commercial purposes is guilty of
12585 littering and subject to a fine as provided in Section 97-15-29.

12586 (b) Any person who violates this section in an amount
12587 exceeding fifteen (15) pounds or twenty-seven (27) cubic feet in
12588 volume, but not exceeding five hundred (500) pounds in weight or
12589 one hundred (100) cubic feet in volume and not for commercial
12590 purposes is guilty of a misdemeanor and subject to a fine of not
12591 less than One Hundred Dollars (\$100.00), nor more than One



12592 Thousand Dollars (\$1,000.00), or to imprisonment for a term of not
12593 more than one (1) year, or both.

12594 (c) Any person who violates this section in an amount
12595 exceeding five hundred (500) pounds in weight or one hundred (100)
12596 cubic feet in volume, or in any amount or volume of solid waste
12597 for commercial purposes, or in any amount or volume of hazardous
12598 waste is guilty of a felony and subject to a fine of not less than
12599 Five Hundred Dollars (\$500.00), nor more than Fifty Thousand
12600 Dollars (\$50,000.00) or to imprisonment for a term of not more
12601 than five (5) years, or both. For purposes of the fine, each day
12602 shall constitute a separate violation.

12603 (d) In addition to any other fines, penalties or
12604 injunctive relief prescribed by law, a person convicted under
12605 subsections (3) (b) or (3) (c) of this section shall:

12606 (i) Remove or render harmless, in accordance with
12607 written direction from the Department of Environmental Quality,
12608 the unlawfully discarded solid waste;

12609 (ii) Repair or restore property damaged by, or pay
12610 damages for any damage arising out of the unlawfully discarded
12611 solid waste;

12612 (iii) Perform community public service relating to
12613 the removal of any unlawfully discarded solid waste or to the
12614 restoration of an area polluted by unlawfully discarded solid
12615 waste; and



12616 (iv) Pay all reasonable investigative and
12617 prosecutorial expenses and costs to the investigative and/or
12618 prosecutorial agency or agencies.

12619 (e) If a conviction under subsection (3) of this
12620 section is for a violation committed after a first conviction of
12621 that person under this section, the maximum punishment under the
12622 respective paragraphs shall be doubled with respect to both fine
12623 and imprisonment.

12624 (4) A court may enjoin a violation of subsection (2) of this
12625 section.

12626 (5) Any motor vehicle, vessel, aircraft, container, crane,
12627 winch, or machine used in a felony violation of this section may
12628 be seized with process or without process if a law enforcement
12629 officer has probable cause to believe that the property was used
12630 in violation of that section. The seized property shall be
12631 subject to an administrative and/or judicial forfeiture by the
12632 same standards and procedures provided under Sections 41-29-176
12633 through 41-29-185.

12634 (6) In the criminal trial of any person charged with
12635 violating subsection (2) of this section, the defendant must
12636 affirmatively show that he had authority to discard the solid
12637 waste.

12638 (7) Any person who conspires to commit a violation of this
12639 section shall be punished in accordance with the underlying
12640 offense set forth in this section.



12641 (8) It shall be the duty of all law enforcement officers to
12642 enforce the provisions of this chapter.

12643 (9) All prosecutions for felony violations of this section
12644 shall be instituted only by the Attorney General, his designee,
12645 the district attorney of the district in which the violation
12646 occurred or his designee and shall be conducted in the name of the
12647 people of the State of Mississippi. In the prosecution of any
12648 criminal proceeding under this section by the Attorney General, or
12649 his designee, and in any proceeding before a grand jury in
12650 connection therewith, the Attorney General or his designee shall
12651 exercise all the powers and perform all the duties which the
12652 district attorney would otherwise be authorized or required to
12653 exercise or perform. The Attorney General shall have the
12654 authority to issue and serve subpoenas for any felony violation in
12655 the same manner as prescribed under Section 7-5-59.

12656 (10) Jurisdiction for all felony violations shall be in the
12657 circuit court of the county in which the violation occurred.

12658 (11) Nothing in this section shall limit the authority of
12659 the department to enforce the provisions of the Solid Waste
12660 Disposal Law or shall limit the authority of any state or local
12661 agency to enforce any other laws, rules or ordinances.

12662 (12) The Department of Transportation may erect warning
12663 signs along the roads and highways of this state advising the
12664 public of the existence of these sections and of the penalty for
12665 the violation thereof.



12666 (13) This section shall not prohibit the storage of ties
12667 poles, other materials and machinery by a railroad or a public
12668 utility on its right-of-way. This section does not apply to any
12669 vehicle transporting agricultural products or supplies when the
12670 solid waste from that vehicle is a nontoxic, biodegradable
12671 agricultural product or supply.

12672 (14) The Attorney General may pay an award, not to exceed
12673 Ten Thousand Dollars (\$10,000.00) to any person who furnishes
12674 information or services that lead to a felony criminal conviction
12675 for any violation of this section. The payment shall be subject
12676 to available appropriations for those purposes as provided in
12677 annual appropriation acts. Any officer or employee of the United
12678 States or any state or local government who furnishes information
12679 or renders service in the performance of an official duty is
12680 ineligible for payment under this subsection.

12681 **SECTION 241.** Section 97-35-21, Mississippi Code of 1972, is
12682 brought forward as follows:

12683 97-35-21. Every person who shall wilfully break into, deface
12684 or destroy any lighthouse station, post, platform, steps, lamp or
12685 other structure pertaining to such lighthouse station, or shall
12686 extinguish any light erected by the United States upon or along
12687 the navigable waters of this state to aid in the navigation
12688 thereof, shall, upon conviction, be adjudged guilty of a
12689 misdemeanor and punished by imprisonment in the county jail not



12690 exceeding one year, or by a fine not exceeding one hundred
12691 dollars, or by both such fine and imprisonment.

12692 **SECTION 242.** This act shall take effect and be in force from
12693 and after July 1, 2024.

