

LAWS RELATING TO ENVIRONMENTAL CONTROL

PART 1 OF 2 PARTS

Preliminary Draft

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University of Mississippi

Law Center

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FOREWORD

This volume is one of eight representing a compilation of Mississippi laws which most significantly affect the use and development of the state's marine and coastal zone. The compilation has been prepared by the Mississippi Law Center at the University of Mississippi School of Law, under the auspices of the University of Mississippi and the Mississippi Universities Marine Center, Dr. Sidney E. Upham, Director.

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LAWS RELATING TO ENVIRONMENTAL CONTROL

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ENVIRONMENTAL CONTROL

I. INTRODUCTION

Part II of this compilation elaborates upon the general powers of those agencies, commissions and boards exercising primary control over the environment of the marine and coastal zone. Part III analyzes health and safety laws and regulations. Part IV encompasses those land use regulations which foster environmental protection, and the final part, Part V, looks to specific laws designed to regulate and control pollution in all forms.

II. PRIMARY CONTROL AGENCIES, COMMISSIONS AND BOARDS.

A. State Board of Health.

The State Board of Health exercises primary control in the regulation of sanitation and in the control of contagious diseases throughout the state, including the marine and coastal zone. Among its statutory powers are these:

(1) Authority to establish sanitary regulations for house trailers, house trailer camps, and tourist camps. These regulations may include provisions concerning sanitary construction, maintenance, and registration of trailers and trailer camps with respect to plumbing, drainage, water supply and disposal or removal of toilet excretion, garbage and all other waste or refuse. No house trailer or camp may be located or operated within the state unless it has complied with these regulations, and anyone violating such regulations shall be guilty of a misdemeanor.¹

(2) When informed by a county health officer of any other matter or thing which is calculated to or may cause the spread of an epidemic or contagious disease, the State Board of Health may declare the same a nuisance and institute measures to have the nuisance abated.²

(3) Cooperation with county mosquito control commissions. The director of the State Board of Health shall be an ex-officio member of each county mosquito control commission and upon request by the commission, the State Board of Health shall furnish such surveys, maps, information, and advice as may be available, the expenses of such being paid by the commission.³ The director of the State Board of Health must approve all appointments to the county mosquito control commission made by the boards of supervisors of the various counties.⁴

(4) The State Board of Health is designated as the State Radiation Control Agency in matters pertaining to nuclear radiation.⁵ The executive officer of the State Board of Health shall appoint experts in the field of nuclear radiation for three year terms and such experts will be called the Radiation Advisory Committee.⁶

B. Air and Water Pollution Control Commission.

The Mississippi Air and Water Pollution Control Commission must approve any regulations passed by the Oil and Gas Board regarding disposal of waste products brought to the surface of a well or providing for the prevention of seepage, overflow, and damage to the topsoil.⁷

C. Municipal Authorities.

There is much difficulty in categorizing all of the powers of Mississippi

municipalities in the field of environmental control, because of the broad scope of the term "environmental control" and the large number of statutes granting authority to towns and cities. Many of these acts, general in their terms, may support certain types of environmental control. Others are narrowly drawn statutes specifically authorizing the exercise of control over certain forms of pollution or other environmental problems. We begin with the general power of the governing authorities of municipalities to make all police regulations necessary for the preservation of order and peace in the municipality and to prevent injury to, destruction of, or interference with public or private property. Among the more specific powers are these:

A municipality has the power to regulate or prohibit any mill, laundry, or manufacturing plant from operating so as to allow soot, cinders, smoke, or unnecessary noises to damage or interfere with use and enjoyment of any public or private property.⁸ Such governing authorities also have the power to regulate and prescribe the construction and building of chimneys, smokestacks, and smoke and hot-air flues.⁹

Governing authorities of municipalities have the power to make regulations to prevent the introduction and spread of contagious disease, to make quarantine laws for that purpose, and to enforce such laws within five miles of the corporate limits.¹⁰

Certain municipalities are empowered to pay a sum not to exceed \$225.00 per month to any non-profit civic and development corporation for the purpose of building, equipping, maintaining, and operating community parks, community

houses, tennis courts, bowling lanes, lakes, golf courses, and swimming pools, and for the acquisition of land and facilities for such purposes.¹¹

Governing authorities of municipalities have the power to own, operate and regulate, for public recreation and pleasure, piers, pavilions, bath houses, and other appropriate structures on any tidewaters or navigable streams within or on the border of municipal limits.¹²

Governing authorities of municipalities have the power to establish, alter or change channels of streams or water courses, as well as to bridge them, if doing so will promote the health, comfort and convenience of the inhabitants.¹³

Counties and municipalities having in whole or in part a National Guard Camp, United States Army Training Camp, Army Air Base or Artillery Range are authorized, by resolution adopted by majority vote of their governing bodies, to acquire, lease, construct, improve or extend, within or without their territorial limits, waterworks systems, sewer systems, sewage disposal systems, garbage disposal systems and rubbish disposal systems.¹⁴

A municipal body may divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purposes of controlling buildings; and, within such districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of building throughout each district, but regulations of different districts may vary.¹⁵

In order to do such zoning, the legislative body may utilize the city engineering department or an advisory committee of citizens to recommend

boundaries of various original districts and appropriate regulations to be enforced therein.¹⁶ In case of violation of the zoning law or of any ordinance or other regulation made in relation thereto, proper local authorities may institute an appropriate action or proceeding to prevent such unlawful building or use of buildings. Anyone who knowingly and wilfully violates the terms, conditions or provisions of a municipal zoning ordinance or a county zoning ordinance shall be guilty of a misdemeanor, should no other criminal penalty be provided.¹⁷

District regulations shall be made in accordance with a comprehensive plan and design to lessen congestion in streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; and to facilitate adequate provisions for transportation, water, sewerage, schools, parks and other public requirements.¹⁸ The legislative body of a municipality shall provide for the manner in which such regulations, restrictions, and boundaries of such districts shall be determined, established, and enforced and from time-to-time amended, supplemented or changed. No such regulation, restriction, or boundary shall become effective until after a public hearing, at which parties in interest and citizens shall have an opportunity to be heard.¹⁹ Governing authorities are to provide notice of at least fifteen days when changing, modifying, repealing, amending or supplementing regulations, restrictions and boundaries.²⁰

The legislative body of any municipality is empowered to regulate height, number of stories, and size of buildings and other structures; the percentage of the total lot that may be occupied; size of yards, courts and open spaces; density of population; and location and use of buildings, structures, and land for trade, industry, residence or other purposes.²¹ Whenever provisions of any other

statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings, or a lesser number of stories, or greater percentage of lot to be left unoccupied, or impose other standards higher than are required by regulations made under authority of the zoning law, the provisions of such other statute, local ordinance or regulation shall govern.²²

Governing authorities of municipalities have power to make regulations to: secure the general health of the municipality; prevent, remove, or abate nuisances; regulate or prohibit construction of privy-vaults and cess-pools and to regulate and suppress those already made; compel and regulate connection of all property with sewers and drains; suppress hog pens, slaughter houses and stockyards or regulate and enforce regulations for keeping in order all warehouses, stables, alleys, yards, private ways, out houses, and other places where offensive matter is kept or permitted to accumulate; and compel and regulate the removal of garbage and filth beyond corporate limits.²³

The governing body of a municipality is authorized to require removal of any anhydrous ammonia storage plant located within its corporate limits if, after a hearing, it is established that any such plant is unsafe in any way.²⁴

The governing authority of a municipality is authorized on its own motion or upon receipt of a petition requesting action, signed by a majority of residents on any street or alley within 300 feet of any parcel of land in need of cleaning, to give notice to the offending property owner (by United States registered mail three weeks before date of hearing, or, if owner be unknown, by three weeks notice in newspaper of general circulation in the municipality) of a hearing to determine

whether or not such land in such state of uncleanness is a menace to the public health and safety of the community. If such land is adjudicated to be such a menace, the governing authority shall proceed to have the land cleaned, if the owner fails to do it himself. The cost of such cleaning may be assessed against the property owner.²⁵

Whenever any municipality finds that there exists within its boundaries buildings which are unfit for human habitation due to dilapidation, defects increasing hazards of fires or accidents, lack of ventilation, light or sanitary facilities, or any other condition rendering such building unsafe and unsanitary, that municipality can exercise its police power to remedy or eliminate such faulty conditions.²⁶ The governing body of a municipality is further authorized to adopt ordinances relating to buildings which are unfit for human habitation, use or occupancy.²⁷ Under ordinances governing slum clearance, public officers may determine a building unfit for human habitation, use or occupation if he finds conditions which are dangerous or injurious to health, safety or morals of persons using such building.²⁸

Complaints or orders issued by a public officer pursuant to a slum clearance ordinance shall be served on persons either personally or by registered mail. If address is unknown, notice may be published once each week for two successive weeks in a newspaper printed, published and circulated in the county in which such dwellings are located.²⁹ Any person affected by an order issued by the public officer may apply to the circuit court for an injunction restraining the public officer from acting.³⁰ Public officers are empowered and authorized to investigate

building conditions to determine whether the buildings are unfit and to enter upon the premises for purposes of examination.³¹ The governing body of a municipality adopting any slum clearance ordinance shall prepare an estimate of annual expenses or costs to provide equipment, personnel and supplies necessary for periodic examinations and investigations of buildings for the purpose of determining fitness and for enforcement and administration of its ordinances.³² Governing authorities may cause local improvements to be made at the cost of the property owners benefitted thereby by levying and collecting special assessments, and may finance such local improvements in any manner provided by law.³³

Municipalities may adopt building codes, plumbing codes, electrical codes, gas codes, sanitary codes, or any other codes dealing with general public health, safety or welfare. The municipality gives notice of the adoption of those codes by publication in a local newspaper, or if no newspaper exists, by posting at three or more public places within the corporate limits.³⁴

Governing authorities owning or operating municipal public utility systems have the power to create a commission to control such systems. The commission shall consist of not less than three nor more than five commissioners elected by the governing authority.³⁵ When any municipality operating under the council-manager plan of government shall establish, or continue in existence, a commission to operate any public utility system, the commissioners thereof shall be selected by and shall be under the control of the mayor and councilmen of the municipality and not the city or town manager.³⁶ Any municipality is authorized

to borrow money and issue revenue bonds for purposes of supplying public utilities systems with funds to acquire or improve any waterworks system; water supply system; sewerage or sewage disposal system; garbage and rubbish disposal systems; incinerators; gas producing, generating, transmission, or distribution systems; or electric generating, transmission or distribution systems within or without corporate limits.³⁷ No bonds are to be issued pursuant to provisions authorizing municipalities to operate and maintain public utility systems unless a majority of qualified electors of the municipality approve such issue, provided that election shall not apply to issuance of such revenue bonds for the purpose of improving, repairing or extending any public utility systems.³⁸ Governing authorities of every municipality have the power to inspect machinery, appliances and premises of all persons, copartnerships or corporations owning or operating any public utility system within their corporate limits in order to ascertain whether such machinery, appliances and premises are kept in a sanitary condition as required under their franchises.³⁹

Governing authorities of municipalities have the power to: provide for the prevention and extinguishment of fires, within or without corporate limits; organize, establish, operate and maintain fire department and systems and to regulate same; establish fire limits; and pass regulations calculated to aid in the prevention or extinguishment of fires.⁴⁰ Moreover, fire departments are permitted, for purposes of extinguishing and preventing fire as well as limiting damages and injuries to persons or property caused by fire, to: use roads, highways, streets and alleys outside limits; have right of way and priority over public roads, streets and alleys

and be free of any liability on account of injury to property or persons occurring in route to a fire.⁴¹ Governing authorities of the municipality are authorized to create, by ordinance, a fire district within or adjoining the municipality when petitioned to do so by a majority of owners of property, real or personal, located within the proposed fire district. After creation, the ordinance must be published three weeks in a local newspaper. At the next regular meeting of the governing authorities after publication, they shall declare the district a fire district and shall have full power to contract for laying water mains to be used in the district and for the establishment and maintenance of fire service.⁴² Governing authorities of any two or more municipalities may contract to create a consolidated fire district which shall consist of all, or a part of, the territory of the municipalities joining therein.⁴³ Governing authorities of municipalities have full power to raise the levy on property, real and personal, by special assessment within the fire district sufficient to pay for laying water mains and to meet contracted annual rental for such service. They also have power to enforce and collect taxes as provided by law for such a length of time as authorities deem proper.⁴⁴ Upon the petition of a majority of property owners residing therein, such fire districts may be abandoned and discontinued by the governing authorities of the municipalities involved.⁴⁵ Any municipality authorized to establish a fire district may purchase or construct a waterworks plant or other plant or equipment necessary for establishment or maintenance of fire service. The fire district may issue bonds to secure funds to be used for the purchase of said plant or cost of construction and pay or retire them from taxes annually levied on taxable property of the district.⁴⁶

Fire and police protection is promoted by a comprehensive statutory scheme for the payment of benefits to policemen and firemen. 47

ENVIRONMENTAL CONTROL

FOOTNOTES

1. Miss. Code Ann. § 8269 (Supp. 1972).
2. Miss. Code Ann. § 7037 (1952).
3. Miss. Code Ann. § 7098 (1956).
4. Id. § 7097.
5. Miss. Code Ann. § 7096.5-11(a) (Supp. 1972).
6. Id. § 7096.5-11(b).
7. Id. § 6132-10.
8. Miss. Code Ann. § 3374-124 (1956).
9. Id. § 3374-150.
10. Miss. Code Ann. § 3374-132 (Supp. 1972).
11. Id. § 3374-125.3.
12. Miss. Code Ann. § 3374-142 (1956).
13. Miss. Code Ann. § 3374-122.
14. Id. § 2987.
15. Id. § 3591.
16. Id. § 3595.
17. Miss. Code Ann. § 3596 (Supp. 1972).
18. Miss. Code Ann. § 3592 (1956).
19. Id. § 3593.
20. Miss. Code Ann. § 3594 (Supp. 1972).
21. Id. § 3590.
22. Miss. Code Ann. § 3597 (1956).

23. Id. § 3374-116.
24. Id. § 5104-11.
25. Miss. Code Ann. § 3374-171 (Supp. 1972).
26. Id. § 3501.
27. Id. § 3502.
28. Id. § 3503.
29. Miss. Code Ann. § 3504 (1956).
30. Id. § 3505.
31. Miss. Code Ann. § 3506 (Supp. 1972).
32. Id. § 3507.
33. Miss. Code Ann. § 3664-01 (1956).
34. Id. § 3374-80.
35. Id. § 3519-01.
36. Id. § 3519-01.5.
37. Miss. Code Ann. § 3519-08 (Supp. 1972).
38. Id. § 3519-13.
39. Miss. Code Ann. § 3519-27 (1956).
40. Id. §§ 3374-140, 3374-149.
41. Miss. Code Ann. § 3470 (Supp. 1972).
42. Id. § 3614.
43. Miss. Code Ann. § 3614.5 (1956).
44. Id. § 3615.
45. Id. § 3616.
46. Id. § 3617.

47. A municipality with a population of 10,000 or more and a paid fire or police department has a duty to maintain a "Disability and Relief Fund for Firemen and Policemen". Miss. Code Ann. § 3472 (Supp. 1972). For a municipality of 3,000 or more (but less than 10,000) and a fire department with equipment of not less than \$4,000 in value and two paid firemen or a police department with at least two paid policemen, such a fund is optional, depending on the results of an election called for that purpose. Id. §§ 3494-01, -02. Any municipality may, however, upon petition of 20 percent of the qualified electors, hold an election to determine whether it shall maintain the Fund. Miss. Code Ann. § 3474 (1956); Miss. Code Ann. 3494-26 (Supp. 1972).

The Fund is maintained through the proceeds from a levy on taxable property within the municipality not to exceed two mills, gifts or donations made by persons or corporations, a deduction of three percent from the monthly salaries of the members of the fire and police departments, and any amounts received from insurance companies for the benefit of said fund. Id. §§ 3473, 3494-05.

The Fund is administered by a Board of Relief and Disability composed of the mayor of the municipality, two city commissioners, and two members each from the fire and police departments. Miss. Code Ann. § 3478; Miss. Code Ann. § 3494-20 (Supp. 1972). The Board of Disability and Relief Appeals, consisting of the State Insurance Commissioner, the Attorney General, and the Secretary of State, has review authority over

determinations by local boards, and its decision is final. Miss. Code Ann. § 3479 (1956); Miss. Code Ann. § 3494-11 (Supp. 1972).

All members of the fire and police departments are entitled to benefits from the Fund. Id. §§ 3484, 3494-04, -15. Benefits included are disability, id. §§ 3485, 3485.5, 3494-17, retirement, id. §§ 3486, 3494-18, -18.5, death, Miss. Code Ann. § 3487 (1956); Miss. Code Ann. § 3494-19 (Supp. 1972), and survivors', id. § 3487.5, compensation.

A municipality maintaining a Fund so notifies the State Insurance Commissioner who in turn notifies all fire and lightning insurance companies. All such companies then must report to the Commissioner the amounts of all premiums. These premiums are taxed at the rate of 1/2 of one percent. Id. §§ 3494-07 to -09.

D. Other Commissions, Agencies and Boards.

1. Pearl River Industrial Commission.

The Pearl River Industrial Commission is composed of Hinds, Leake, Madison, Neshoba, and Rankin Counties and other counties in the state through which the Pearl River runs. The commission is authorized to investigate the possibility of developing these areas from an industrial, irrigational and recreational standpoint in order to attract new industries and to conserve available water for irrigational and industrial purposes. The governor appoints one member to the commission from each participating county.¹

2. Yellow Creek Watershed Authority.

The Yellow Creek Watershed Authority, composed of the area embodied in the Yellow Creek watershed of the counties of Alcorn, Prentiss, and Tishomingo, consists of 3 members appointed by the governor. It is authorized to do all things necessary in effectuating a plan for the comprehensive development of the resources of the watershed.²

3. The Governor and Advisory Committee on Nuclear Energy.

The governor is authorized to enter into agreements and to perform other necessary acts in authorizing this state to accept powers and responsibilities from the appropriate agencies of the federal government (related to nuclear energy).³ The Mississippi Advisory Committee on Nuclear Energy consists of not more than 25 members, appointed by the governor to serve terms co-extensive with the governor appointing them. The governor is the ex-officio chairman of the committee.⁴

4. Gulf Regional District.

The powers of the Gulf Regional District are limited to: (1) determining factors affecting the long range development of the area; (2) exploring all private avenues of assistance; (3) studying the roles that state and local governments should play in cooperating with the federal and private interests so that maximum utilization of resources can be obtained and; (4) recommending a comprehensive long range development plan of the area's recreational, cultural, and economic life.⁵ The Gulf Regional District may coordinate activities in planning the region's redevelopment and develop effective lines of communication between local, regional, state, and federal governments and agencies. It may also develop programs for long-range development of the region, develop and update comprehensive regional and associated regional plans for the district, and marshal the regions natural and human resources. The district may provide planning assistance to public agencies, provide financing for regional projects undertaken by public agencies, and enter into contracts with public or private agencies or persons for performance of regional projects.⁶ The above duties are expressly limited to the fact that no rights, powers, or duties may be undertaken by the district except at the request and consent of public agencies involved in the project. The Gulf Regional District is authorized to act at the request and with the consent of the public agency involved, and to implement any approved regional plan.

The district must determine priorities and give primary attention to projects involving rehabilitation of devastated areas in order to safeguard the

lives and protect property.⁷ Any public agency may request the Gulf Regional District to approve a plan designed to accomplish its purpose. The district may approve the employment of competent consultants, engineers, and/or other technical personnel to prepare an analysis and feasibility study of the proposed project. This study must include all costs of the project including financing costs. Contracts involved in the project must also be included in addition to a projection of all revenues expected.⁸

Each county and city in the district, whether associated as a member or not, must give the district all of their codes and zoning regulations, including subsequent amendments or supplements. The district may then propose, but not compel, the adoption of uniform ordinances, regulations, or codes. The district may also serve as a clearing house for the dissemination of information relating to planning matters between counties, cities, and other municipalities within the region.⁹

The district is further authorized to acquire (either directly or through the public agency involved) land, interests in land, property, or interests in property. These may include but are not limited to, rights, easements, licenses, and privileges. The power of eminent domain may be exercised only by the governing authority or body of the political subdivision within whose boundaries the approved project is to apply.¹⁰

The district (and each member of the district) may expend public funds and issue revenue or general obligation bonds up to its legal limit. These obligations provide funds for projects of the district.¹¹

The purpose of the Gulf Regional District is not to limit, restrict, or curtail existing powers of municipalities but to provide a vehicle for the effective performance of their functions. Municipalities are not required to obtain approval from the district before conducting feasibility studies. The intent is that the governing body of the district will not be vested with any governmental powers or functions other than those conferred upon it by the public agencies in the manner provided.¹²

5. The Boards of Supervisors.

The Constitution of 1890 provides that each county will be divided into 5 districts, with a resident elected from each. The five so chosen serve as the board of supervisors for the county.¹³

The board of supervisors of any county within the state may adopt building codes or other codes dealing with general public health, safety, or welfare. These codes apply only to unincorporated areas of the county and do not apply to farm buildings or public utility functions. The board adopts these codes by resolutions which need not be set out in the code in full but simply identified.¹⁴

The board of supervisors of any county in Mississippi is authorized to appropriate an annual sum of \$250 out of the county treasury to aid fire departments (for services and protection).¹⁵ Boards which find that the public interest of the county will be served, may purchase fire trucks and other fire-fighting equipment. If the entire county participates, the board may pay its share of the cost from the county's general fund. However, if less than 5 districts participate, the board must pay from a special fund known as the "Fire Prevention Fund". The

board may authorize the participation of the entire county or any district whose public interests will be conserved thereby. It may also levy an annual ad valorem tax (not to exceed 1/4 of 1 mill in participating districts) in order to fund these expenditures. However, no tax may be levied upon any taxable property lying within the corporate limits of a municipality which furnishes fire protection. Also, no part of the levy will be reimbursable under the Homestead Exemption Laws of Mississippi.¹⁶

Counties or municipalities with military camps located within their jurisdiction may acquire property for the establishment of waterworks and sewage disposal systems. They also may establish, maintain and collect rates, fees and charges sufficient to pay expenses of operation and the interest and principal on bonds.¹⁷

Boards of supervisors may appropriate money out of the general fund to assist in eradicating animal parasites and other contagious and infectious diseases of livestock.¹⁸ The board may also act in cooperation with the Mississippi State Livestock Sanitary Board and the United States Department of Agriculture Bureau of Animal Industry to eradicate these diseases.¹⁹ If the State Veterinarian determines that a county is infested with the cattle tick, the board of supervisors of the county immediately begins systematic tick eradication.²⁰ The board of supervisors provides dipping vats along with the proper chemicals and materials necessary for the tick eradication.²¹ The eradication begins on the date indicated by the State Veterinarian and continues until notice is given by the State Veterinarian (in writing) that the cattle tick is completely eradicated.²²

The board of supervisors, upon designating an area for dipping livestock

to eliminate ticks, flies, or other nuisance insects, must request the technical assistance of the State Livestock Sanitary Board. The board cooperates in general planning and technical supervision. It also selects approved chemical agents and tests these agents for effectiveness.²³

The board of supervisors of any county where a state park is located may donate to the Mississippi Park System a sum not to exceed \$2,000 annually for the establishment, maintenance, and support of the state park within the county. It may also levy a special tax not to exceed one mill on the dollar on all taxable property of the county. The proceeds of this special tax are used for the establishment, maintenance and support of the state park.²⁴

The board of supervisors of any county, or the mayor and board of aldermen of any city, town, or village may appoint a suitable person to be Inspector of Food, and may direct what foods shall be inspected.²⁵

Any city, county, or authorized port or harbor facility may enter into contracts, leases or agreements with the board of supervisors for the improvement, operation, development, or expansion of any port, harbor, or inland waterway. These authorities must submit the plan to the board for appraisal and the board may modify the plan, imposing various conditions. The revised plan must then be approved by a 2/3rds vote of the governing body.²⁶

6. County Port Authority.

The board of supervisors of any county having a County Port Authority or County Development Commission has control over land, facilities, and equipment useful in the operation of all harbor, navigation, and channel facilities in the county.²⁷ The board of supervisors may enter into contracts for the development, construction, repair, maintenance, or operation of facilities necessary to aid

commerce through the port.²⁸

Any county port authority or county development commission has control over lands within or adjacent to rivers, bays, or natural lakes which are below mean high tide mark, and which lie within or adjacent to any port or harbor within the county's jurisdiction. They may reclaim these lands by filling and dredging. They may exercise joint and concurrent jurisdiction with the port commission, and may reserve all oil, gas, and other mineral rights on state-owned lands to the state.²⁹ The county port authority may lease or sell land to individuals or corporations, public or private, for industrial operations (if such land is not used for port purposes and navigation, commerce, and fishing will not be impeded by the sale or lease). No lease may extend for more than 99 years; and, all sales or leases must be approved by a 2/3 vote of the membership of the port authority in addition to approval by the board of supervisors.³⁰

The board of supervisors of any county having a plan approved by the Mississippi Agricultural and Industrial Board for development of ports, harbors, or waterways, may issue general obligation bonds in maximum principal amounts of \$2,000,000 to provide funds for facilities incidental to such ports, harbors, and waterways.³¹ The board of supervisors of any county bordering on the Mississippi Sound or Gulf of Mexico with an assessed valuation in excess of \$8,000,000 or less than \$5,000,000, can expend funds received from the sale of bonds issued under this act for harbor improvements, harbor development, breakwaters, wharves and docks, recreational centers, and for the purchase of necessary lands and rights-of-way.³²

The board of supervisors may maintain and construct necessary devices

to protect roads, streets, and highways extending along beaches from water drainage.³³ The board may pass ordinances or exercise eminent domain in order to procure the right-of-way for roads, streets, highways and devices adopted for protection of highways. Violations of these ordinances constitute a misdemeanor.³⁴

When declared necessary by the board, the governor appoints a protection commission, made up of 5 freeholders of the county, to protect any highway. The commission employs an engineer (to be approved by the board) to make surveys, plans, specifications, and estimates of costs of construction under the direction of the road protection commission.³⁵

The board of supervisors of any county with an assessed valuation of \$10,000,000 or more has the authority to borrow up to \$1,500,000 for the purpose of maintaining a sea wall or road protection structure. These boards also have the authority to receive Federal aid and to employ required professional help.³⁶

7. Board of Agricultural Aviation.

The Board of Agricultural Aviation may adopt rules to regulate the application of chemicals and pesticides. The board may set professional standards for aerial applicators in the interest of the safety, welfare, and general well being of the public of the state. In addition, the board may procure samples of spray and dust to determine the concentrations of the mixtures. It has access to any premises where the pesticide has been applied or where an applicator is based (with the authority to inspect equipment used for application of such chemicals). The board does not control the application of hormone type herbicides.³⁷

The Board of Agricultural Aviation maintains close liaison with the Mississippi State Plant Board and the Mississippi Aeronautics Commission.³⁸

The board, upon application, may issue a license for any person to act, operate or do business as an applicator or to engage in the application of pesticides by air.³⁹ The Board of Agricultural Aviation requires any person seeking a license as an applicator in this state to submit proof of financial responsibility. Also, licensees must maintain proof of financial responsibility at all times while the license is in effect.⁴⁰ The board may issue applicator's licenses to non-residents of this state; however, non-residents must designate and maintain a resident agent in this state for service of process and must also establish and maintain proof of financial responsibility in addition to proof of payment of all state taxes as provided herein.⁴¹ The board collects a fee of up to \$50 for each aircraft owned or operated by an applicator. This fee is paid to the board for the issuance of the required annual renewal of an aerial applicator's license. Each licensed aircraft must be identified by a device supplied to the licensee by the board.⁴²

The board may suspend or revoke any license it issues after the licensee is given 10 days notice by registered or certified mail and a hearing has been held. The board may cancel or revoke the license if it finds that the licensee misrepresented statements in the application for or the renewal of the license, or violated any other regulation. Appeal from the revocation, cancellation, or suspension may be taken to the circuit court of the domicile of the licensee.⁴³

Violations of regulations of the Board of Agricultural Aviation are deemed misdemeanors punishable by fines of not less than \$100 and not more than \$500 or by imprisonment in the county jail for not more than 6 months, or both. The

board may also utilize injunctive proceedings against such violators.⁴⁴

8. Land Commissioner.

The Land Commissioner, with approval of the governor, may grant or donate easements in and to public lands of the state to any drainage district, flood control district, or to the United States Government. These easements are for the construction and maintenance of flood control canals and ditches; drainage canals and ditches, or other flood control or drainage instrumentalities.⁴⁵ Also, the land commissioner may rent or lease all lands belonging to the state, for a period of not exceeding 1 year. He must account for rents in the same manner as money received from sale of state lands. No state lands may be rented or leased for hunting or fishing purposes. The commissioner may rent or lease lands or submerged lands owned or controlled by the state, lying in or adjacent to the Mississippi Sound or the Gulf of Mexico or streams emptying therein, for a period not exceeding 5 years.⁴⁶ The state gives consent to the acquisition (by the United States, by purchase or gift) of land within or adjacent to existing national forests in Mississippi, subject to prior approval of: (1) the board of supervisors of the county where the land is located; and (2) the Mississippi Forestry Commission, provided that not more than 25,000 acres may be acquired in the entire state.⁴⁷

It is unlawful for any person who has contracted to purchase state forfeited tax lands, to cut, sell, or dispose of merchantable timber on the lands before the purchase has been concluded. Persons violating this act are guilty of a misdemeanor and may be punished by a fine of not less than \$100.00 or more than \$500.00, or by imprisonment in the county jail for a term not to exceed six months or both.⁴⁸

The land commissioner may contract to sell state forfeited tax lands, including state lands lying in municipalities, even if such lands have been subdivided. The land commissioner fixes prices for these lands. The contract must provide that part of the purchase price shall be paid in cash, and the balance paid in equal annual installments not to extend over 5 years.⁴⁹

9. Flood Control and Drainage Districts.

The board of commissioners of a flood control district (or agencies with which they cooperate) may dam up or obstruct natural watercourses as provided by § 81, Mississippi Constitution of 1890. They may also construct and maintain by-passes or other artificial means for conveying surplus or flood waters by shorter or direct routes. However, the artificial means must empty the water back into the watercourse in which it would naturally flow or into the back water area of another watercourse within 35 miles of the mouth.⁵⁰

These boards of commissioners may construct and maintain by-passes for conveyance of these waters. They may convey waters from one point in a natural watercourse to another point, or from one watercourse to another watercourse.⁵¹

The commissioners of a drainage district may construct ditches beyond the border of their district to carry water to a proper outlet. They may condemn a right-of-way for that drain or construction. The drain is the property of the district. Persons are not allowed to connect lateral drains without the consent of the commissioner. If the land owner does not agree with the charge set for connecting to the drain, the board of supervisors in that county will fix the amount of compensation, subject to appeal to the circuit court.⁵²

Property owners are deemed to have accepted the assessment of damages

or to have acquiesced in the commissioner's failure to assess damages unless they give the commissioners notice in writing within 30 days after the assessment is filed. In the written notice, they must demand assessment of their damages by a jury. The commissioners must then institute a proper action to condemn the lands.⁵³

The commissioners may adopt a common seal for the drainage district and may also adopt rules and regulations to carry out the purpose of their incorporation not inconsistent with the laws of the state. The commissioners may select from their own numbers a president and appoint officers, agents, attorneys, or employees necessary for the efficient management of their business.⁵⁴

If 1/4th of the real property owners in a proposed drainage district file a petition in the chancery court to establish a drainage district, the chancery clerk must give notice of the petition by two successive publications in a local newspaper. In the notice, he also sets a date for a hearing. The chancellor must hear all objections to organization of the district at the hearing. He may proceed with the organization unless a majority of the landowners owning half or more of the land to be included in the district object to the organization. If the petition is approved, the chancellor must appoint 3 temporary commissioners from the landowners of the proposed district whose terms will expire upon permanent organization of the district. The temporary commissioners must select an engineer who will survey the region and give an estimate of the cost and character of drainage.⁵⁵

All drainage districts, at the discretion of their commissioners, may permit the use of their drainage canals for irrigation. However, the district's

engineer must first determine that this use will not be detrimental to the district.⁵⁶

A sub-drainage district may be organized with the county drainage commissioners acting as commissioners. Proceedings to organize the sub-drainage district will substantially conform to the provisions for drainage districts. The commissioners may issue bonds, but the proceeds must be used for the exclusive benefit of the sub-drainage district.⁵⁷

Commissioners of drainage districts may do all acts necessary in constructing and maintaining drains or ditches in their district. They must annually clean the ditches and drain the lands. The commissioners may borrow money in anticipation of levied taxes (not to exceed 1% of the amount of benefits assessed). In evidence thereof, tax anticipation warrants may be issued. These warrants must be paid out of the first funds collected.⁵⁸

A consolidated drainage district has the same power, authority and jurisdiction over the combined territory of separate districts as if it were organized as a separate district. In addition, it may assess the combined territory and levy taxes for the purpose of raising money to preserve the integrated system of drainage. The consolidated drainage district may assess the combined lands without regard to the former assessments in any separate district.⁵⁹

In order to protect property, prevent overflows, or reclaim lands, flood control districts may acquire lands, flowage rights, rights-of-way, or easements within or without the district by purchase, grant, donation, or condemnation. The commissioners may purchase land from the state for the district's use or the federal government's use in building or maintaining flood control works or improvements. The purchase of state land is subject to the same terms and conditions as

lands purchased from other persons, except that the limitations of the number of acres which may be sold to one person does not apply to the purchase by the flood control district. The governor or land commissioner may transfer title to the district upon purchase without regard to these limitations.⁶⁰

The boards of commissioners of flood control districts may police the works of the district and, in times of floods or great emergency, compel assistance of the citizens of the district protected by the works. They may also prohibit persons or things from passing over the district's works if it is determined that damage would result.⁶¹

The commissioners of swamp land districts may control and manage the affairs of these districts and may make improvements to and maintain existing drainage canals of the district. The commissions may contract and cooperate with the United States government in improving or maintaining channels. These improvements are funded by the district.⁶² In addition, the commissioners of swamp land districts may perform all acts necessary to accomplish the designated purposes of the district.⁶³

All political subdivisions of the state, all agencies and departments of state government, and all soil conservation districts are authorized to cooperate with, expend funds for, and enter into agreements with drainage districts and agencies of the United States government in order to carry out the purposes of the district.⁶⁴

10. State Forestry Commission.

The State Forestry Commission consists of the governor and seven (7) qualified electors who hold real property in this state. The appointees are selected with reference to their knowledge and interest in continuous conservation, development and production of forests. The appointees are selected from the seven (7)

forestry districts, and serve four (4) year terms.

The commission may acquire or dispose of land in order to discharge its duties.⁶⁶ The Forestry Commission may also act to control timber insects and diseases. It may conduct investigations to determine the best methods to combat these insects and diseases.⁶⁷ The commission lists all the varieties of the pine beetle and similar timber insects, and declares these and other pests to be a public nuisance.⁶⁸ Should the Forestry Commission have to enter the land of a private owner to remove infested timber, it must first secure from the appropriate chancery court an order authorizing the removal [if the value is over one hundred dollars (\$100.00)].⁶⁹ The commission may also protect any land that is within an organized forest protective area; but, if the land is owned by private individuals or corporations, the commission must use the same care to protect this land as they would land under their complete authority.⁷⁰

Any fire on any forested, cut over, bush lands, or grass lands burning uncontrolled is a public nuisance. If the person who started the fire refuses to control it, any fire suppression agency recognized by the commission will attempt to control or extinguish it.⁷¹ The Forestry Commission may establish forest districts and areas throughout the state. These districts are set up in accordance with the distribution of forest land and the location of political boundaries.⁷²

To encourage better land use and to prevent soil erosion, the Forestry Commission gives farmers and schools free commercial tree seedlings. The farmers and schools must agree to plant the seedlings properly, to care for them, and to protect them.⁷³

In the event of a natural disaster, or enemy attack, the Forestry Com-

mission will follow the guidelines and procedures set out in Executive Order No. 73, III (Sept. 28, 1970).

11. Water Resource Management District.

The boards of supervisors of those counties having drainage districts select three (3) county drainage commissioners (who serve for six year terms).⁷⁴ Any resident citizen of the county who owns land and is over twenty-five (25) years of age is eligible to hold the office.⁷⁵ All drainage districts may cooperate and enter into agreements to carry out the purposes of Public Law 566, 83rd Congress of the United States or other laws of the National Congress pertaining to soil and water conservation.⁷⁶

The Drainage District Commissions may act to survey, construct and repair, alter, clean, protect and maintain drains or ditches within their district.⁷⁷ The commissioners may issue bonds, the proceeds of which will be used to construct internal drains and perfect existing internal drains.⁷⁸ The commissioners may also construct ditches or do other work beyond their boundaries if necessary to carry water to some proper outlet.⁷⁹ Any drainage district having a comprehensive general plan to control overflow and surplus water of rivers or their tributaries may construct and maintain by-passes for conveying surplus water by shorter routes from tributaries of natural streams to their main watercourse.⁸⁰ If the drainage district is expanded, the commissioners have the same power over newly acquired land as they had over previous territory.⁸¹ A consolidated drainage district has the same authority, power and jurisdiction over the combined territory of the separate districts, and over the integrated system of drainage, as

would a district organized and existing under and by virtue of Sections 4675 et seq., Code of 1942.⁸²

Swamp Land District Commissions have control and management of all of the affairs of the swamp land, and have the power and authority to make improvements to and to maintain the existing drainage channel or channels of the district. They may contract with agencies of the United States government.⁸³ Also, the commissioners of the various drainage districts are authorized to make agreements among themselves.⁸⁴ The various commissioners may accept land conveyances; and, they may use, rent, lease and convey this land for the benefit of the district in the maintenance of flood control works. Such lands will be subject to taxes, to be paid by the commissioners.⁸⁵ The various commissioners may also acquire or condemn rights-of-way for levees and drainage ditches in or out of their districts, so long as the United States is allowed free access to flood control works constructed by them.⁸⁶

A flood control district may do all acts necessary to properly carry out their purposes, (including the power to contract, to sue and be sued, and to exercise the right of eminent domain and taxation.)⁸⁷ The commissioners of a flood control district may obstruct or dam up any natural watercourse (other than as prohibited by Section 81, Mississippi Constitution of 1890) and may construct and maintain by-passes for conveying surplus or flood waters by shorter or more direct routes.⁸⁸ The commissioners may police the works of the district and, in times of flood or other emergencies, may compel the assistance of the citizens to protect the works. They may also prevent vehicles or livestock from passing over the works.⁸⁹

12. Mineral Lease Commission.

The State Mineral Lease Commission may lease and sell all state owned land (including submerged lands) to any reputable person, association or company, (for oil and/or gas, and or other minerals in and under such lands with the exception of the sixteenth (16th) section land, lieu lands and tax forfeited land and property, title to which is subject to any lawful redemption) for such terms as the commission deems proper.⁹⁰ Whenever land is leased for oil and/or gas or other minerals, the leases will not be for more than seven-eighths (7/8ths) of the oil, gas, or minerals (thus retaining one-eighth (1/8th) royalty to the state.)⁹¹ Leases providing for the removal of sand and gravel from submerged lands are also authorized.⁹²

The Mineral Lease Commission may employ competent engineering personnel to survey territorial waters of the state and the Mississippi Sound and Gulf of Mexico and to prepare maps of the waters divided into blocks of not more than six thousand (6,000) acres (with reference points and coordinators based on longitude and latitude surveys).⁹³ Leases will be made by reference to these maps which are kept on permanent file with the Mineral Lease Commission and the office of the State Oil and Gas Board.⁹⁴

The Mineral Lease Commission may also make or let public contracts for drilling wells on state lands.⁹⁵ The commission, in its own discretion, may drill wells on state land, employ drillers and other employees, purchase or lease equipment necessary for drilling.⁹⁶ The commission may sell or contract for the sale of surplus oil and/or gas not needed by the state. This excess cannot be sold for less than the market price; and, the commission is guided by the best

interests of the state.⁹⁷

The Mineral Lease Commission may contract for the construction of suitable state owned pipelines for the transportation of natural gas and/or oil for use by the state.⁹⁸ The pipeline may be laid in or under or along any street, alley, sidewalk, road or other public property. If necessary the commission may exercise the right of eminent domain.⁹⁹

13. Animal Health Board.

The Animal Health Board and its authorized representatives may inspect, investigate, sample and seize all matter in accordance with the law.¹⁰⁰ The State Livestock Sanitary Board may make any rule or regulation as may be necessary to prevent the spread of disease among poultry.¹⁰¹

14. Bridge and Park Commission.

The commission for a municipality or county may acquire islands in the Gulf of Mexico or in the Mississippi Sound to be used for parks or other recreational purposes so long as the island is within three (3) miles of a corporate limit of a municipality or within the boundaries of a county. The land may be later sold or leased if it is no longer needed for park or recreational purposes.¹⁰² The commission may establish rates, fees, charges and tolls for the use of any bridge or causeway.¹⁰³ The holder of any bond issued by the commission may in any civil action, mandamus or other proceeding, enforce and compel all duties required of the commission or any officer thereof by law or by resolution authorizing the issuance of bonds.¹⁰⁴

Municipalities may also incorporate newly acquired island or islands, in whole or in part, in the manner provided by law.¹⁰⁵ None of the restrictions or

limitations of the law that are applicable to the issuance or sale of bonds by a political corporation or subdivision will apply to the issuance or sale by the commission.¹⁰⁶ The commission has the full power and authority to cooperate with other commissions or political bodies, to carry out the above procedures.¹⁰⁷

15. Soil and Water Conservation District.

The Soil and Water Conservation District is a governmental subdivision and a public body exercising public powers.¹⁰⁸ No provision dealing with the acquisition, operation, or disposition of property by other public body will be applicable to an organized district unless the legislature specifically states it to be.¹⁰⁹

16. Mississippi Park Commission.

The Mississippi Park Commission may sell and dispose of timber, trees, deadwood, and stumps in state parks. The sale or disposal must be done under the direction of the State Forestry Commission, in accordance with sound principles of forestry management and conservation.¹¹⁰ The Forestry Commission marks the trees to be cut, but the cutting must not destroy the scenic view from tourist observation points.¹¹¹ If there are trees cut which are not marked, the purchaser will double the agreed on price.¹¹² Prior to any cutting, the Forestry Commission must publish notice as provided for by law.¹¹³ The bids that are offered for the cutting are made to the local park superintendent, and he gives the bids to the Park Commission for their approval.¹¹⁴ The commission accepts the highest bid for cash.¹¹⁵ The purchaser has the necessary ingress and egress for the cutting. The funds from the sale are put in a special improvement fund for the affected state parks.¹¹⁶ In the state treasury there is a fund known as "Mississippi Park Fund". All monies previously held in the "Mississippi Park System Fund"

will be transferred to the new fund.¹¹⁷ All monies collected by the commission will be put in the new fund, and all expenditures made out of the fund will be made by the executive director of the commission.¹¹⁸

The Mississippi Park Commission administers a positive program of preventive maintenance for all parks within its jurisdiction.¹¹⁹ It may also lease parks to state institutions, for educational or recreational activities, to be run without profit for a period of not more than ten (10) years.¹²⁰ The commission may grant easements and rights-of-way which it deems in the best interest of the park.¹²¹ The Mississippi Park Commission is further guided by Executive Order No. 73 (Sept. 28, 1970), to coordinate its activities with other agencies in the case of a natural disaster or enemy attack.¹²³

17. Agricultural and Industrial Board.

The Agricultural and Industrial Board controls and operates structures and facilities needed in the aid of commerce. It may also dam inland waterways, establish water basins, acquire and develop industrial sites and reclaim submerged lands.¹²⁴ The board of supervisors of any county which has a plan approved by the Mississippi Agricultural and Industrial Board for the development of any port, harbor, or waterway, may, with the approval of the board, issue general obligation bonds of the county in the maximum principal amount of two million dollars (\$2,000,000), (to provide funds for the dredging of channel and harbor and preparation sites for the construction or acquisition of ships, vessels, shipyards, shipbuilding facilities, machinery and equipment, dredges, floating drydocks, graving docks, marine railways, tug boats, or any other facilities required or incidental to the construction, outfitting, drydocking or repair of ships or vessels).¹²⁵

The board has the power and right to acquire rights-of-way, land and property necessary for the purposes above outlined.¹²⁶ The board may not acquire (without the consent of the owner) property operated and used for port, harbor or industrial purposes unless there is an actual necessity alleged and proven.¹²⁷ The board may establish, adopt and promulgate certain specific minimum requirements that will clearly describe and define the minimum requirements that will clearly describe and define the minimum requirements for an industrial park or district within the law; and, these requirements will include a complete engineering study.¹²⁸

The board may select and designate certain links of roads or highways to connect approved industrial sites to adequate highways and road facilities.¹²⁹ The board may also acquire ports, harbors, waterways and other facilities incidental to the construction or repair of ships, air and rail terminals, and other structures and facilities needed in the aid of commerce.¹³⁰

18. Gulf Coast Research Laboratory.

The board of trustees of institutions of higher learning may establish and maintain a marine research laboratory on state-owned lands within Magnolia State Park in Jackson County, Mississippi. The state board of park supervisors assign the land for this use.¹³¹ The board of trustees of institutions of higher learning supervises the research laboratory; at their discretion, they may direct that it be operated by the Mississippi Academy of Science, Inc.¹³² The board of trustees may expend funds, not in excess of five thousand dollars (\$5,000), to support the research laboratory.¹³³ A political and corporate body has been created under the name of the Gulf Coast Research Laboratory. It may contract, acquire property of any description necessary for its operation,

convey and use land, and adopt regulations governing the laboratory and its personnel.¹³⁴ The purpose of the laboratory is to promote the study of science, including the natural resources of Mississippi, and to disseminate research findings and specimens from the Gulf Coast area.¹³⁵ The laboratory is under the control and supervision of the board of trustees of the State Institutions of Higher Learning, with the powers and duties of the laboratory vested in the Board of Trustees.¹³⁶

FOOTNOTES

1. Miss. Code Ann. § 5956-41 (Supp. 1972).
2. Id. § 5956-44.
3. Id. § 7095.5-04.
4. Id. § 7095.5-02.
5. Id. § 9054-57.
6. Id. § 9054-61.
7. Id. § 9054-62.
8. Id. § 9054-63.
9. Id. § 9054-65.
10. Id. § 9054-66.
11. Id. § 9054-67.
12. Id. § 9054-68.
13. Miss. Const. art. § 170.
14. Miss. Code Ann. § 2890.7 (Supp. 1972).
15. Miss. Code Ann. § 2912 (1956).
16. Miss. Code Ann. § 2912.3 (Supp. 1972).
17. Miss. Code Ann. § 2988 (1956).
18. Id. § 4848.
19. Id.
20. Id. § 4850.
21. Id.
22. Id. § 4851.
23. Id. § 4861.3(3).

24. Miss. Code Ann. § 5957-10 (Supp. 1972).
25. Miss. Code Ann. § 7113 (1952).
26. Miss. Code Ann. § 7564-08 (Supp. 1972).
27. Id. § 7605-06.
28. Id. § 7605-07.
29. Id. § 7605-09.
30. Id. § 7605-10.
31. Id. § 7605-23.
32. Miss. Code Ann. § 7606 (1956).
33. Id. § 8499.
34. Id. § 8503. The several boards of supervisors shall have the power and authority to construct, maintain, and repair any sea wall, sloping beach, or other protection; to purchase and maintain all necessary machinery, tools and instruments; to employ necessary engineers and laborers to operate same; and to pay for same out of funds collected and paid into the treasury by virtue of this chapter. Id. § 8504.
35. Id. § 8505.
36. Id. § 8516.3.
37. Miss. Code Ann. § 5011-08 (Supp. 1972).
38. Id. § 5011-05.
39. Id. § 5011-06.
40. Id. § 5011-07.
41. Id. § 5011-09.
42. Id. § 5011-10.

43. Id. § 5011-11.
44. Id. § 5011-12.
45. Miss. Code Ann. § 4114 (1956).
46. Miss. Code Ann. § 4095 (Supp. 1972).
47. Id. § 4156-01. All lands: (1) falling to the state by escheat; (2) coming to the state by any other manner; (3) belonging to the state which were ceded to the state by the United States for a seat of government, located in Pearl River swamp and subject to overflow; (4) all other seat of government lands, which have been surveyed into blocks and lots in Jackson, Mississippi, which were part of the original lands ceded by the Federal Government to the state for the seat of government which have never been disposed of by the state; (5) all accretions near the mouth of the Pascagoula River, heretofore surveyed by the state; (6) and all other lands within the borders of the state and not belonging to the United States, nor owned by another, are property of the state, and are to be managed and disposed of through the land office of the land commissioners. Miss. Code Ann. § 4123 (1956).
48. Miss. Code Ann. § 4084 (Supp. 1972).
49. Id. § 4080.
50. Id. § 4803.
51. Id. § 4803-01.
52. Id. § 712.
53. Id. § 4690.
54. Id. § 4681.

55. Id. § 4675.
56. Id. § 4673.5.
57. Id. § 4639.
58. Id. § 4609. Flood drainage and control districts, through their board of directors, are empowered to: (1) impound, divert, change, alter, or otherwise control the overflow and surface water of any river and tributaries within or without the district as approved by the Board of Water Commissioners, by construction of any available means to prevent such overflow within the project area; (2) cooperate with the United States in construction of such flow and drainage control improvements and rights-of-way needed for flood control; (3) prevent damage to persons and property from water; (4) acquire by condemnation and other means all lands needed for flood control purposes, minus the mineral rights of such lands; (5) overflow any public lands; (6) sue and be sued in its corporate name; (7) to make by-laws, use a corporate seal, and make contracts and execute instruments; (8) employ needed people and pay their wages; and (9) apply for and accept grants. Miss. Code Ann. § 3665-09 (Supp. 1972).
59. Miss. Code Ann. § 4752-07 (1956).
60. Id. § 4792.
61. Id. § 4816.
62. Id. § 4757-01.
63. Id. § 4757-03. Additional powers conferred upon existing drainage districts include: (1) adopting regulations concerning necessary measures for

prevention of erosion, floodwater and sediment damage; (2) cooperating with all political subdivisions of state and federal government; (3) acquiring lands, easements, and rights-of-way; (4) constructing and maintaining control structures; and (5) issuing bonds for payment of expenditures involved in providing and improving control facilities. Also, drainage districts may be organized for the purpose of reclaiming wet, swamp, or overflowed lands for agricultural and sanitary purposes conducive to public health. Miss. Code Ann. § 4606.5 (Supp. 1972); Miss. Code Ann. § 4579 (1956).

64. Miss. Code Ann. § 4606.5 (Supp. 1972).

65. Id. § 6022. The powers of the commission are as follows: to appoint a State Forester who will serve for four (4) years, the Commission also has the power to remove the State Forester for just cause; to take such action as is necessary to prevent, control and extinguish forest fires; to encourage forest and tree planting; to make technical investigations and studies of forests and their related condition; to assist and cooperate with any federal or state department or institution, county, town, corporation or individual in preparation and execution of plans for protection, management, and replacement of forests; to encourage public interest in forestry by means of correspondence, the state forester will also assist any private timber owner and manage and protect any state owned forests; to control the expenditures of all funds appropriated to the commission; and to submit an annual report of expenditures and proceedings to the state legislature. Miss. Code Ann. § 6023 (1-8) (Supp. 1972).

66. Id. § 6023-01.

67. Id. § 6023-05.
68. Id.
69. Id.
70. Miss. Code Ann. § 6041 (1952).
71. Miss. Code Ann. § 6046 (Supp. 1972).
72. Miss. Code Ann. § 6046-03 (1952).
73. Id. § 6046-31.
74. Miss. Code Ann. § 4577 (1956).
75. Id. § 4578.
76. Miss. Code Ann. § 4606. 3 (Supp. 1972). The districts, existing or future, are authorized to cooperate with the U. S. Corps of Engineers to carry out the purposes of Public Law 566, 83rd Congress of the United States, and those districts already existing may borrow money from the Farmers Home Administration Agency to secure the costs necessary to implement Public Law 566. Id. § 4606. 4.
77. Miss. Code Ann. § 4609 (1956).
78. Id. § 4639.
79. Id. § 4712.
80. Id. § 4739.
81. Id. § 4748.
82. Id. § 4752-02.
83. Id. § 4757-01.
84. Id. § 4763.
85. Id. § 4765.
86. Id. § 4766-02.

87. Id. § 4776.
88. Id. § 4803.
89. Id. § 4816.
90. Miss. Code Ann. § 5948 (Supp. 1972).
91. Id.
92. Id.
93. Id.
94. Id.
95. Miss. Code Ann. § 5949 (1952).
96. Id.
97. Id.
98. Id. § 5950.
99. Id.
100. Miss. Code Ann. § 4862-05 (Supp. 1972).
101. Miss. Code Ann. § 4863-05 (1956).
102. Miss. Code Ann. § 5974-04 (Supp. 1972).
103. Id. § 5974-10.
104. Id. § 5974-11.
105. Id. § 5974-12.
106. Id. § 5974-13.
107. Id. § 5974-14.
108. Miss. Code Ann. § 4947 (Supp. 1972). The district has the following powers: to conduct surveys and research relating to soil erosion, and to publish such information; to conduct demonstration projects within the district's lands controlled by the state and other lands with the consent

of the owner; to carry out preventive and control measures within the district, including but not limited to, engineering operations, methods of cultivation, the growing of vegetation and changes in land use; to cooperate and to furnish erosion-control and prevention operations; to obtain options and acquire real and personal property, tax-free, and to use the land in the furtherance of the law, but no land can be acquired for recreational purposes; to make equipment, material and supplies available to landowners within the district; to maintain and construct the necessary structures in order to carry out the law; to develop comprehensive plans for the conservation of soil and water resources in the district; to acquire and administer any water and soil conservation or erosion-control or erosion-prevention projects undertaken by the federal or state governments, or to act as agents for these projects; to assist private land owners in planning and establishing recreational activities for family or community access purposes; to enter into contracts, with the approval of the governor, with the federal or state governments or their political subdivisions; to collect cost sharing funds, and to establish procedures for necessary financing of soil and water conservation within the district; to receive and expend funds from federal, state, or private sources to further the purposes of the law; and to sue and be sued. Miss. Code Ann. § 4947 (a-m) (Supp. 1972).

109. Id. § 4947(p).

110. Id. § 5957-12 (Supp. 1972).

111. Id.
112. Id.
113. Id.
114. Id.
115. Id.
116. Id.
117. Id. § 5958-01(b).
118. Id.
119. Id. § 5958-06.
120. Id. § 5958-09.
121. Id.
122. Id. § 5957-10.
123. See Executive Order No. 73 § 111A (21) (Sept. 28, 1970).
124. Miss. Code Ann. § 7623-05 (Supp. 1972).
125. Id. § 7605-23.
126. Id. § 7564-14.
127. Id.
128. Miss. Code Ann. § 8940-03 (Supp. 1972).
129. Id. § 8021. 8.
130. Id. § 7564-04.
131. Miss. Code Ann. § 6725-02 (1952).
132. Id.
133. Id.

134. Id. § 6725-05.

135. Id.

136. Id.

D. Other Commissions, Agencies and Boards (con't)

19. Commissioner of Agriculture.

The Commissioner of Agriculture encourages the development of agriculture, horticulture and kindred industries. He encourages local agricultural organizations, collects statistics useful in developing agricultural resources, and investigates crop diseases. He makes those rules and regulations which are necessary to carry out his statutory duties.¹ The commissioner appoints inspectors who take samples of various commodities for examination by state chemists. The results of these examinations are published yearly.²

20. Game and Fish Commission.

The Game and Fish Commission may fix the open seasons for game birds and game animals. (There is no closed season on predatory animals).³ The commission cooperates with the United States Bureau of Biological Survey to eradicate predatory animals which are destructive to game birds, animals, and livestock. These state actions are funded by the State Game Protection fund.⁴ The commission may also issue permits to hunt those species of animals or birds which become injurious to agriculture or other state interests.⁵ Although bag-limits for game birds and animals were established initially by statute, the commission may modify them.⁶

In order to protect and conserve fish, the commission may regulate the taking of non-game fish from Sardis, Enid, Arkabutta, and Grenada Reservoirs. (Also the rivers within five (5) miles below the dams of these reservoirs).⁷ The commission may also negotiate reciprocal agreements with the states of Arkansas

and Louisiana in order to govern fishing and the hunting of waterfowl on the Mississippi River.⁸ The hunting or fishing license of one who violates the commission's regulations may be revoked.⁹ (In addition, persons killing deer out of season are subject to a fine of at least \$100.00).¹⁰

21. State Land Commissioner.

The State Land Commissioner, with the consent of the Attorney General and the Game and Fish Commission, may lease cut-over, swamp, and over-flowed lands of the state (lands unsuitable for agriculture). These lands may be leased for a period not to exceed twenty (20) years for the purpose of establishing game and fish preserves. The leased tracts must be 1,000 acres or larger, and, commercial timber cutting or waste is prohibited.¹¹

22. Director of Conservation.

The Director of Conservation may cooperate with the United States government to protect the wildlife resources of national forests within the state. He may also regulate hunting and fishing on these lands.¹² He may issue permits authorizing the collection of wild animals, wild birds (or birds' nests or eggs), for scientific and propagation purposes.¹³ Wildlife or fish restoration projects may be conducted in cooperation with agencies of the United States government.¹⁴ License fees collected from fishermen or hunters may be used only for fish and game protection or restoration.¹⁵

The commissioner may inspect any discharge of industrial waste into the streams of the state. He may require the respective person or firm to pay a fee of not more than \$200 to pay for these inspections.¹⁶

23. Marine Conservation Commission.

The Marine Conservation Commission has now replaced the old Seafood Commission.¹⁷ It has jurisdiction over all sea foods in state coastal waters, and beds and bottoms of rivers and streams connecting with the Gulf of Mexico or Mississippi Sound.¹⁸ The commission is made up of three members (who must be active in the seafood industry) one each from Hancock, Harrison, and Jackson Counties, plus a marine biologist whose recommendations are those of the commission unless overridden by six members.¹⁹ For a more detailed discussion of the commission's activities and regulations, see § III C. 1-3 of this chapter.²⁰

24. Board of Water Commissioners.

The Board has authority to enter into compacts concerning this state's share of waters flowing in watercourses partially contained in neighboring states.²¹ The board specifies forms and procedures for submitting applications, reports, and other water resource information. The board also examines license applicants and inspects water wells in the state.²² The board and its agents are authorized to enter upon private or public lands to make surveys of streams and natural watersheds; however, it is responsible for any damage done to the property entered.²³ The board may conduct hearings, administer oaths, issue subpoenas, and order depositions.²⁴

Whenever the rights to the use of waters in the state have been adjudicated by a court, the board aids in distributing the water according to the decree.²⁵ The board may revoke or suspend the water use license of any holder who violates the provisions of the Water Resources Act or regulations of the board.²⁶ If further action is required, the board may go to court for appropriate relief.²⁷

25. Master Water Management Districts.

The commissioners of water management districts are authorized to do anything not inconsistent with state law for the purpose of carrying out projects and improvements under Public Law 566, 83rd Congress, as amended, or other laws of the United States.²⁸ The board of commissioners of a district may borrow money at up to 6% interest by issuing notes or bonds of total amount not exceeding the benefits assessed against the real property in the district by the board. Notice must be given to the landowners of the district; and, no bonds may be issued without the approval of the chancery court.²⁹ The costs and expenses are to be assessed in proportion to the benefits accruing to each landowner, and no assessment is made against public lands.³⁰

26. Pat Harrison Waterway Commission.

The Pat Harrison Waterway Commission is composed of Clarke, Covington, Forrest, George, Greene, Jackson, Jasper, Jones, Lamar, Lauderdale, Newton, Perry, Smith, Stone, and Wayne Counties, and is governed by a board with one member from each county and three members from the state at large. An executive director and other personnel for the commission may be selected by the board. The commission surveys the Pascagoula, Leaf, and Chickasawhay Rivers, Tallahala Creek, and their tributaries, and cooperates with federal and other state agencies to promote barge canals in the area. Member counties finance the commission at their discretion.³¹

The commission is empowered to petition the Chancery Court of Forrest County for the establishment of the Pat Harrison Waterway District, including

in the petition the counties to be included in the work contemplated. The Chancellor of Forrest County has jurisdiction over the entire waterway district for the purposes of this act. The Board of Water Commissioners, each county included in the petition, and any municipality within the district with a population of 10,000 or more should be named defendants.³² Once the chancellor is convinced that the district is feasible and beneficial, he enters a decree organizing it. The district is then in existence as decreed, unless within 45 days, 20% of the qualified electors of any county or counties petition the court for an election on the question of the inclusion of the county in the district.³³

The district, once organized, is authorized to cooperate with the U. S. Corps of Engineers and other federal or state agencies in carrying out public works programs for improved navigation, flood control, conservation, and recreation. In connection with this general purpose, the district is given a number of specific powers.³⁴ The commission shall provide for effective utilization of district manpower and resources during natural disasters or other emergencies. It must cooperate with and report to the State Emergency Operating Center during such emergencies.³⁵

27. Pearl River Commissions and Districts.

The Pearl River Industrial Commission is composed of Hinds, Leake, Madison, Neshoba, Rankin, Copiah, Simpson, Lawrence, Marion, Pearl River, and Hancock Counties. The commission holds regular meetings and employs personnel, including an executive director. The commission studies the possibilities of developing areas along the Pearl River from an industrial, irrigation and recreational standpoint, to attract new industry and conserve available water. The commission also draws plans for protection against pollution and for disposal

of industrial waste and sewerage in the area. The commission is financed by discretionary contributions from the counties which elect to join. The commission cooperates with the State Water Control Board,³⁶

The Pearl River Valley Water Supply District includes the same counties as the Pearl River Industrial Commission, namely, those counties through which the Pearl River flows. The district, through the boards of supervisors of its member counties, is authorized to build dams, reservoirs, and other works to distribute water efficiently and prevent floods. It may also reforest areas within the district to prevent soil erosion and water pollution. The district may condemn lands or rights-of-way along either side of the Pearl River (out to a quarter mile past the 300 foot contour line) and to otherwise acquire lands inside or outside the boundaries of the district. It may sue and be sued, employ necessary personnel, accept grants, issue bonds, and collect fees for services to other political subdivisions. It may also lease or sell acquired property by public sale, subject to first refusal right of former residents whose residences were taken by condemnation.³⁷ Boards of supervisors within the district may adopt appropriate regulations for recreational uses of district lands or reservoirs and the prevention of pollution or waste of reservoir water. Violators may be punished by a fine of up to \$1,000 and/or 15 days in jail. Also, the district may recover damages in addition to injunctive relief for pollution of these waters.³⁸ The powers of the district are liberally construed by the courts.³⁹

The Pearl River Basin Development District has powers similar to those of the Pearl River Valley Water Supply District. It, like the Valley District, is

primarily engaged in promoting the conservation and efficient use of the Pearl River and its tributaries by building dams, reservoirs and public works, making surveys, and preventing soil erosion and water pollution. The Basin Development District cooperates with the U. S. Army Corps of Engineers, the U. S. Departments of Agriculture and Interior, and other federal and state agencies.⁴⁰

28. State Oil and Gas Board.

The State Oil and Gas Board regulates drilling, casing, and plugging of wells so as to prevent intermingling of minerals in different strata, pollution of water in underground strata, and waste of minerals or water. The board also regulates the disposal of waste products brought to the surface by wells. To insure safe and efficient utilization of mineral resources, the board adopts rules: requiring efficient oil/gas ratios in producing wells; prohibiting premature water encroachment upon producing zones; and preventing blowouts, unbalanced drainage, caving, seepage, and unnecessary fire hazards. The board also regulates the spacing of wells and the equitable allocation of oil and gas production among the several producers in the same reservoir.⁴¹ Any person or firm authorized to explore for, produce, or transport minerals in Mississippi may be allowed to construct and operate necessary facilities in navigable waters in the state, upon obtaining a permit from the board.⁴² The board may approve the use of an underground reservoir for storing natural gas if it finds that this will not contaminate other formations containing oil, gas, water or commercial mineral deposits.⁴³ The board issues regulations necessary to prevent pollution of the underground gas storage reservoir and the escape of gas therefrom. The gas in an approved reservoir is the property of the person who put it there and is not subject to the

rights of the surface owner.⁴⁴ The Oil and Gas Board must have written emergency plans and must cooperate with other agencies and the State Director of Civil Defense during natural disasters, nuclear attack, or other emergency, in order to maximize use of resources and manpower to protect lives and property.⁴⁵

29. Port Commissions.

Port Commissions are given jurisdiction and control over lands within or adjacent to rivers, bays, ports, harbors, and lakes which are or were below mean high tide. The commissions also have jurisdiction over lands which have been acquired by purchase, lease, or condemnation. Commissions may reclaim land by dredging and filling and may use or dispose of reclaimed land for port development.⁴⁶ Port commissions may (by 2/3 vote) sell or lease unneeded lands to individuals or firms for industrial use if this use will not impede navigation or commerce and if safeguards to protect public interests are included. The commission and the city must join in the conveyance if the city owns some title in the land.⁴⁷ Commissions may sell or lease lands to municipalities for industrial purposes, and may join with municipalities in conveying or leasing lands for industrial uses. The dispositions are terminable upon abandonment of industry, non-compliance with the terms, or non-use for specified purposes.⁴⁸

Authorities of a municipality having a port of entry may construct harbors, operate harbor facilities under a port commission, use municipal lands for harbor purposes, lease harbor facilities, lease land and facilities for industrial use, condemn property needed for port purposes, and reclaim submerged land.⁴⁹ Municipal authorities of ports through which goods are imported and exported and

which have channels twenty feet deep or deeper may make improvements costing up to \$1,000,000,⁵⁰ and may develop, operate, and promote the seaport.⁵¹

Port commissions, with the board of supervisors' approval, may sell or lease lands or easements for industrial development. The commission may also sell land to be used for navigation, flood control, or display of historic vessels to the United States Government.⁵² Authorities of a municipality having a port, eight or more seafood industries, and a channel of at least eight feet, may develop, operate, and promote the seaport and may develop and operate associated facilities such as cold storage facilities, water and rail terminals, airplane landing fields, access bridges and causeways, and recreational facilities, up to a total cost of \$2,000,000.⁵³

Typical of port commission regulations are those of the Biloxi Port Commission. They require that all garbage, oil sludge, refuse, sewage, and waste material be disposed of properly, and that no waste matter may be thrown into the basin or harbor or on the docks or roads. Also, no bilge pump-outs or boat washdowns are allowed in the basin.⁵⁴ No signs or markings may be placed or made on docks, piers, or other structures without commission authorization;⁵⁵ smoke is not allowed on the fuel dock or in boats tied to it.⁵⁶ Finally, all tenants, visiting boats, and visitors (including pedestrians) must comply with rules of the facility relating to litter, health, pollution, obscenity, and all other Small Craft Harbor rules.⁵⁷

30. Coast Coliseum Commission.

The Coast Coliseum Commission has authority to promote, develop, construct, maintain, and operate a multipurpose coliseum and related facilities in

Harrison County. To this end, the commission may condemn land, furnish and equip the coliseum, expend and receive revenues, adopt rules for granting franchises and leases, contract with state or federal agencies for loans or grants, designate depository banks, and sue and be sued.⁵⁸

ENVIRONMENTAL CONTROL.
FOOTNOTES

1. Miss. Code Ann. § 442J (1956).
2. Id. § 4442. For a detailed discussion of the commissioner's powers, see Miss. Code Ann. § 4423 (1956); § 4543 (1956), § 4575-211 (Supp. 1972).
3. Miss. Code Ann. § 5882 (Supp. 1972).
4. Miss. Code Ann. § 5925 (1952).
5. Miss. Code Ann. § 5849 (Supp. 1972).
6. Id. § 5908.
7. Id. § 5902.5.
8. Id. § 5911.5.
9. Id. § 5881.
10. Id. §5866-01.
11. Miss. Code Ann. § 5923 (1952).
12. Id. § 5926.
13. Miss. Code Ann. § 5850 (Supp. 1972).
14. Id. § 5927.
15. Miss. Code Ann. § 5927.3 (1952).
16. Id. § 5844(o).
17. Miss. Code Ann. § 6047-16 (Supp. 1972).
18. Id. § 6047-03.
19. Id. § 6047-04.
20. See also Miss. Code Ann. §§ 6047-01 to -18, 6072, 6075-12, 6077 (Supp. 1972); and the Commission's Regulations and Ordinances.

21. Miss. Code Ann. § 5956-21 (Supp. 1972).
22. Id. § 5956-33.
23. Id. § 5956-22.
24. Id. § 5956-26.
25. Id. § 5956-24.
26. Id. § 5956-35.
27. Id. § 5956-34.
28. Id. § 5956-108.
29. Id. § 5956-109.
30. Id. § 5956-110.
31. Id. § 5956-43.
32. Id. § 5956-174.
33. Id. § 5956-177.
34. Id. § 5956-180.
35. Executive Order No. 73, § 111A(26) (Sept. 28, 1970).
36. Miss. Code Ann. § 5956-41 (Supp. 1972).
37. Miss. Code Ann. § 5956-61 (Supp. 1972).
38. Miss. Code Ann. § 5956-64 (Supp. 1972).
39. Id. § 5956-52.
40. Id. §§ 5956-251, -257.
41. Id. §§ 6132-10(b), (c).
42. Id. § 6132-61.
43. Id. § 6132-133(c).
44. Id. § 6132-134.

45. Executive Order 73, § 11 (Sept. 28, 1970).
46. Miss. Code Ann. § 7549.7-01 (1956).
47. Id. § 7549.7-02.
48. Id. § 7549.7-05.
49. Miss. Code Ann. § 7558 (Supp. 1972).
50. Miss. Code Ann. § 7567 (1956).
51. Miss. Code Ann. § 7578 (Supp. 1972).
52. Id. § 7576-27.
53. Id. § 7591.
54. Biloxi Port Commission, Rule 5.
55. Biloxi Port Commission, Rule 6.
56. Biloxi Port Commission, Rule 9.
57. Biloxi Port Commission, Rule 27.
58. Miss. Laws of 1968, ch. 530, as amended by ch. 435, Laws of 1972, § 5.

III. HEALTH

A. Sanitation and Other Health Services

1. Sewage Disposal.

(a) Municipalities:

Any municipality may pass sanitary laws, but such laws shall be subject to and not inconsistent with the rules and regulations of the State Board of Health in relation to the county where the municipality is situated.¹ Municipalities may adopt sanitary and any other codes dealing with public health, safety, and welfare, and such codes will be adopted by passing an ordinance for that purpose which must be kept with a copy of the code on file with the clerk after public notice of such code has been given.²

Any municipality may own, operate and maintain sewage and garbage disposal systems. It may enter into contracts, issue bonds, acquire property, and pass ordinances in order to provide effective service.³ A special statute authorizes municipalities having military camps, military air bases, or artillery ranges, located within their jurisdiction to own, operate, maintain, or acquire, lease, construct, improve, or extend, sewer systems and sewage disposal systems.⁴ Municipal governing authorities may make regulations to secure the general health of the municipality to include compelling and regulating the connection of all property with sewers and drains.⁵ All municipalities may purchase and hold real estate, either within or without their corporate limits, for the purpose of providing sewers⁶ and may grant to any person, association or corporation the use of the streets, alleys or public grounds for use in laying, constructing, repairing and maintaining sewer pipes.⁷ These governing authorities

may compel railroads and other common carriers to furnish and maintain sanitary toilets where waterworks systems are available. In other cases, railroads and common carriers must maintain sanitary toilets in their depots and stations.⁸ Such authorities have the power to regulate or prohibit construction of privy vaults and cesspools in addition to regulating or suppressing those already made.⁹ Municipalities may make local improvements including those to sanitary disposal systems and sanitary sewers.¹⁰ They may also issue negotiable bonds to raise money for such construction and improvements.¹¹ District regulations are made in accordance with a comprehensive plan designed to facilitate adequate sewerage systems;¹² and governing authorities, after a proper hearing, may order that certain land, determined to be a menace to health and safety, be properly cleaned, including the cleaning and/or removing of outside toilets and draining cesspools.¹³ Rights of municipalities to empty fecal matter in the form of sewage into the waters of the state shall be subject to reasonable regulations of the Game and Fish Commission.¹⁴

The Gulfport Code of Ordinances states that it is unlawful for any person to discharge into the streets from his premises any household or kitchen slop, liquid manures, or any other offensive, filthy liquids.¹⁵ The code further provides that it is unlawful for any line of any kind, including an open ditch, from a sanitary water closet, septic tank, or other approved sanitary device to be connected to any storm sewer and/or drainage ditch.¹⁶ In addition, it is unlawful to connect a cesspool or septic tank to the sanitary sewerage system.¹⁷ According to the Gulfport Code, as of August 11, 1949, it is unlawful to construct any

residence or building for the housing of human beings within the city, without furnishing and installing inside toilets. Disposal from such toilets must be by connection to sewerage lines or septic tanks. Cesspools are expressly prohibited. All installations of toilets, septic tanks and sewerage connections must comply with city ordinances regarding plumbing and State Board of Health regulations. However, if water under pressure is not available, an outside privy may be constructed with a special permit. Violation of this ordinance results in a fine of not less than \$25 and not more than \$100.¹⁸

The Pascagoula Code makes it unlawful for any person within the city, to throw out, deposit, or dispose of human excreta other than into a properly constructed septic tank, sanitary water closet or other toilet device approved by the State Board of Health. It also prohibits the use of any pit privy.¹⁹ The code further provides that all places in the city where people reside, are employed, or congregate shall be provided with a sanitary method of disposal of human excreta and that it is the duty of the property owner to provide such sanitary method.²⁰ The code states that all places that are inaccessible to the city sewer lines shall be provided with a properly constructed septic tank; but, no septic tank shall discharge onto the surface of the ground.²¹ It is unlawful for any person to discharge any household or kitchen slop, or any kind of liquid manures, or other filthy liquids into any street, avenue, alley, gutter, ditch, or drain anywhere in the city.²² The code provides that each park which accomodates mobile homes of the type which does not have a flush toilet and a bath or shower, shall provide one flush toilet and one urinal for males, one flush toilet for females, one lavatory for each sex, and one shower or bath tub

with individual dressing accommodations for each sex, for each 5 mobile homes. The sanitation facilities for males and females shall be distinctly marked to denote the sex for which they are intended.²³ Waste from showers, bath tubs, flush toilets, urinals and lavatories in buildings within parks shall be discharged into a public sewer system.²⁴ It is unlawful for any person to place, deposit, or permit to be deposited any human or animal excrement, garbage, or other objectionable waste on public or private property within the City of Pascagoula, or in any area under the jurisdiction of the city. It is also unlawful to discharge any sewage to any natural outlet within the city, except where suitable treatment has been provided in accordance with ordinances within the city. It is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for disposal of sewage. The owner of all houses or buildings used for human occupancy or use, situated within the city and abutting the street, alley, or right-of-way in which there is located a public sanitary or combined sewer of the city, is required, at his expense, to install suitable toilet facilities therein, and to connect such facilities directly to the proper public sewer. (Installation must be complete within 90 days of the date of official notice to do so, provided public sewer is within 300 feet of the property line).²⁵ In Pascagoula, the disposal of sewage by private disposal systems shall be permissible only in instances where service from a sanitary sewage system is not available.²⁶ No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer without first obtaining a written permit from the city.²⁷

The Pascagoula Code also provides that no person shall discharge or cause to be discharged any stormwater, surface water, or unpolluted industrial process waters, ground water, roof runoff, or subsurface drainage to any sewer. Stormwater and all other unpolluted drainage shall be discharged to storm sewers or to a natural outlet approved by the Mississippi Air and Water Pollution Control Commission. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Mississippi Air and Water Pollution Control Commission, to a storm sewer, or natural outlet. No person may discharge any type of fuel, oil, or explosive liquid; any wastes or waters containing toxic or poisonous materials or gases; any corrosive substances; or any other substances which might cause obstruction in the flow of sewers.²⁸ No unauthorized person may maliciously, wilfully, or negligently tamper with or damage any part of the sewage works; any person violating this provision is subject to immediate arrest for disorderly conduct.²⁹

(b) Counties and Miscellaneous Governmental Agencies.

Boards of supervisors in counties, acting through a County Port Authority or county development commission, may establish industrial parks and may provide for sewage disposal in such areas.³⁰

In addition, a special statute authorizes counties having military camps, military air bases, or artillery ranges located within their jurisdiction to own, operate, maintain, or acquire, lease, construct, improve or extend sewer systems and sewage disposal systems.³¹ The Regional Planning Commission advises local municipalities and counties as to proper actions to take in solving sewage disposal problems.³² The Pearl River Industrial Commission may draw

plans for the protection against pollution and the development of methods for the disposal of industrial waste in addition to adopting a long-range plan of sewerage disposal for the area.³³ The Biloxi Port Commission requires that all sewage and waste material of any kind must be deposited in refuse containers. The Commission further provides that no waste material of any kind may be thrown from any boat.³⁴

(c) Private Persons.

No private person may operate or construct a sewage disposal or treatment facility for the public without first obtaining from the Public Service Commission a certificate showing the need for such facility, based on convenience and necessity. Only after issuance of the certificate shall the operation of the facility be lawful. Such facilities will be deemed "public utilities" and will be subject to Miss. Code Ann. § 7716-01 et seq.³⁵

(d) Regulations by County and State Board of Health.

Each county may create a Department of Health and appoint a director who must be a graduate physician recommended by the State Board of Health and who must devote his full time to the work of the Health Department. Two or more counties may join to form a sanitary district and may appoint a district director, with the same qualifications as the county health director; however, when such districts are formed, all local health agencies are abolished. Municipalities may support such county or district health departments from the general funds; such district health departments are subject to the jurisdiction of the State Board of Health.³⁶ The health officer, as head of the county health department or sanitary

district has authority to enforce all health laws of such county or district under the supervision of the State Board of Health or its executive committee. He may make investigations and recommendations concerning health problems and sanitary conditions and report these findings to the State Board of Health.³⁷ Cities, towns and villages may construct sewers so as to empty into any navigable stream or creek 25 miles or more in length, subject to the control and regulations of the State Board of Health.³⁸ The State Board of Health establishes health and safety regulations for rock festivals in order to assure full compliance with sanitary code, adequate sewerage facilities and toilet facilities.³⁹ In addition, the County Board of Health of the county in which a rock festival or any similar event is held must inspect the site at least 48 hours before the event to determine in the permit holder has complied with State Board of Health plans. The permit holder must be notified of any non-compliance. If such holder fails to comply within 24 hours, the County Board of Health notifies the sheriff.⁴⁰ The State Board of Health requires that in each residence where people congregate, a sanitary method for human excreta disposal adequate to meet needs be provided. All such homes or places located on streets or alleys where a **system** of sanitary sewers is available, shall have a properly constructed sewer connection to the system, but where no such sewer system is available, all human excreta shall be disposed of into a properly maintained sewage disposal system; no such system shall be permitted to discharge onto the surface of ground or into any street or alley in a manner which may create a public health hazard. Human excreta and undigested sludge is not to be used for fertilizer and all earth pits used for disposal, when abandoned, must be promptly filled with earth and approved by the health officer.

No person may abuse or misuse public toilets or toilet rooms, and the walls, floors and fixtures of such toilets must be kept clean and in good repair.

Liquid wastes from homes, business establishments, offices, or other places where people congregate, shall be disposed of in a manner not to create a public health hazard. The owner of such toilets is held responsible for the compliance with Board of Health regulations.⁴¹

A "Public Toilet" is any toilet room provided for the general public in a theater, service station, public hall, court house, bus station, depot, or other similar public place. Such toilets are to comply with State Board of Health regulations.⁴² The State Board of Health may establish a sanitary code for house trailer camps, tourist camps, and house trailers, with special provisions for disposal and removal of toilet excretion. No such camp or trailer may be located or operated within the state without complying with State Board of Health regulations. Anyone violating regulations shall be guilty of a misdemeanor with each day treated as a separate offense.⁴³ Where toilets are not provided for each camp or house trailer, there shall be provided at least 1 toilet for each sex to each 10 living units, and at least 1 urinal in each toilet building for males.⁴⁴ Every habitable building must be equipped with adequate toilet facilities designed to meet State Board of Health regulations.⁴⁵ The Board of Health will, if necessary, enact special rules and regulations for the protection of watersheds used for the public water supply, and such rules and regulations will deal with methods of sewage and waste disposal as they may affect the sanitary quality of the water tributary to the supply.⁴⁶ All construction of public sewer systems and treatment plants must be done in accordance with plans

submitted in duplicate to the Board of Health and approved by such board, with all modifications subject to the approval of the State Board of Health.⁴⁷

All places of employment must have adequate, readily accessible, and sanitary toilet facilities (separate for each sex) which meet the requirements of the State Board of Health.⁴⁸ All soft drink bottling plants must be provided with adequate, conveniently located toilet facilities for employees and all sewage and other liquid waste shall be disposed of in a public sewage system, or in the absence of such system, in an approved community or private sewage disposal system. All plumbing in such bottling plant shall be sized, installed and maintained so that it will properly convey sewage and other liquid waste from the plant to the sewerage system and will not constitute a source of contamination.⁴⁹

All barber shops and barber schools located on streets or alleys where a public sanitary sewer system is normally available must have a sewer connection to such sewer system; any other method must be approved by the Health Officer.⁵⁰ Also, all food-handling establishments⁵¹ and ice plants⁵² must meet the same standards as barber shops above. All buildings housing the aged or infirm as institutions for such people shall have properly designed waste disposal systems connecting to all fixtures to which water is piped. All liquid and human waste shall be disposed of through trapped drains into a public sewer system where available and, where not available, then through a system approved by the State Board of Health.⁵³ Adequate and convenient toilets of an approved type must be provided for employees in shellfish harvesting, packing, and shipping plants,⁵¹ and also in crabmeat and cooked shrimp packing and shipping plants.⁵⁵

FOOTNOTES

1. Miss. Code Ann. § 7047 (1956).
2. Id. § 3374-80.
3. Miss. Code Ann. § 3519-08 (Supp. 1972).
4. Miss. Code Ann. § 2987 (1956).
5. Id. § 3374-116.
6. Miss. Code Ann. § 3374-112 (Supp. 1972).
7. Miss. Code Ann. § 3374-120 (1956).
8. Id. § 3374-118.
9. Id. § 3374-116.
10. Id. § 3664-02.
11. Miss. Code Ann. § 3598-01 (Supp. 1972).
12. Miss. Code Ann. § 3592 (1956).
13. Miss. Code Ann. § 3374-171 (Supp. 1972).
14. Miss. Code Ann. § 5929-04 (1952).
15. Gulfport, Miss. Code § 14-4 ().
16. Id. § 14-22.
17. Id. § 14-23.
18. Id. § 14-24.
19. Pascagoula, Miss. Code § 15-3 ().
20. Id. § 15-4.
21. Id. § 15-5.
22. Id. § 15-6.
23. Id. § 19-10.
24. Id. § 19-22.

25. Id. § 29-44.
26. Id. § 29-45.
27. Id. § 29-46.
28. Id. § 29-47.
29. Id. § 29-48.
30. Miss. Code Ann. § 7605-06 (Supp. 1972).
31. Id. § 2987.
32. Id. § 2890.5-03.
33. Id. § 5956-41.
34. Biloxi Port Comm., R. 5.
35. Miss. Code Ann. § 7716-45 (Supp. 1972).
36. Miss. Code Ann. § 7082 (1956).
37. Id. § 7083.
38. Id. § 2414.
39. Miss. Code Ann. § 7015-56 (Supp. 1972).
40. Id. § 7015-58.
41. State Board of Health, Regulation Governing Disposal of Human Excreta
and Other Liquid Wastes (June 11, 1960).
42. State Board of Health, Regulation Governing Public Toilets (July 5, 1961).
43. Miss. Code Ann. § 8269 (Supp. 1972).
44. State Board of Health, Regulation Governing Tourist, Cabin, Tent, and
Trailer Camps.
45. State Board of Health, Regulation Governing Sanitation of Habitable Buildings.

46. State Board of Health, Regulation Governing Sanitary Control of Public Water Systems (June 21, 1968).
47. State Board of Health, Sanitary Regulation Governing Public Sewerage System (June 21, 1968).
48. State Board of Health, Regulation: Sanitation and Safety of Industrial Establishments (June 23, 1954).
49. State Board of Health, Regulation Governing Soft Drink Bottling Plants (Sept. 17, 1970).
50. State Board of Health, Regulation Governing Barber Shops, Barbering, and Barber Schools (Dec. 2, 1957).
51. State Board of Health, Regulation Governing Food and Food Handling Establishments (June 21, 1961).
52. State Board of Health, Regulation Governing the Manufacture, Storage, and Handling of Ice (June 19, 1963).
53. State Board of Health, Regulation for Standards for Institutions for the Aged and Infirm (Jan. 1, 1965, as amended, Dec. 14, 1967).
54. State Board of Health, Regulation Governing the Harvesting, Packing and Shipping of Shellfish (June 19, 1963, as amended, Dec. 8, 1966).
55. State Board of Health, Regulation Governing the Preparation, Packing, Sale, and Shipping of Crab Meat and Cook Shrimp (June 1, 1937).

2. Waterworks Systems.

Municipalities:

Municipalities may build, purchase, own, operate and maintain waterworks systems,¹ and in connection therewith, may:

1. Enter into contracts;²
2. Issue negotiable bonds;³
3. Acquire property;⁴
4. Make improvements to existing water mains and water connections;⁵
5. Obtain ownership of, through purchase⁶ or condemnation,⁷ such lands either within or without their corporate limits as may be needed for the provision of such waterworks services;
6. Regulate the rates of such waterworks.⁸

Governing authorities of municipalities may also grant to any person, corporation, or association the use of the streets, alleys, or other public grounds for the purpose of laying, constructing, repairing and maintaining water pipes.⁹ A municipality may contract for such systems and services for a term not to exceed 25 years.¹⁰ These governing authorities may aid and encourage the establishment of waterworks within the corporate limits, by exempting all tangible property used in or necessary to the operation of the waterworks from municipal taxation for a period not exceeding 10 years.¹¹ A special statute provides that municipalities, having a military camp, military air base, or artillery range

within their jurisdictions may acquire, lease, construct, improve, or extend waterworks systems.¹²

Municipal zoning regulations should be made in accordance with a view to making adequate provision for public water requirements and are designed to facilitate adequate provisions of water.¹³

Governing authorities may contract for the laying of water mains to be used in fire districts,¹⁴ and may fund this work by making special assessments on personal or real property within the benefited districts.¹⁵

Any municipality authorized to establish a fire district may purchase or construct a waterworks plant necessary for the establishment and maintenance of fire service in the fire district.¹⁶ Any municipality may sell, lease, or otherwise dispose of any water system.¹⁷ Municipalities (through the Commissioner of Public Utility System) shall keep an accurate account and record of water furnished to all departments of the municipality.¹⁸ If the governing authorities find, upon complaint of any citizen, that there is reasonable ground for believing that any water meter intended to measure the quantity of water supplied by any person, company or corporation is inaccurate, the municipality may employ an expert to test the meter. If it should not meet the standards of the contract, then the supplier of the utility must pay the expenses of the test and receive penalties as are required by ordinance.¹⁹

Counties:

The board of supervisors, acting through a county port authority or county development commission, may establish industrial parks and in such development may provide water systems.²⁰ Any county having a military camp, military air

base, or artillery range within its jurisdiction may acquire, lease, construct, improve, or extend waterworks systems.²¹

State Board:

The State Board of Health must approve all construction, changes, and alterations in water systems; it retains a right of entry in order to inspect all buildings for compliance and regulations. Records of waterworks must be kept by the owner and copies furnished to the State Board of Health.²²

According to regulations of the State Board of Health, "waterworks" include all structures and conduits by which water is collected, treated, and delivered to consumers (except piping and fixtures inside buildings and service pipes from buildings to the main street). "Approved water systems" are water systems in which all necessary measures have been taken to provide water safe for human consumption. "Certified water systems" are approved water systems in which all the water supplied is of highest desirable quality. The State Board of Health establishes health and safety regulations for rock festivals, one of which is an adequate water supply.²³ The State Board of Health also has the power to establish sanitary codes for house trailer camps, tourist camps, and house trailers. These codes make special provisions for sanitary water supplies,²⁴ and are subject to the approval of the Board.²⁵

Every habitable building must be provided with an adequate water supply of a safe, sanitary quality approved by the State Board of Health.²⁶ All barber shops and barber schools must be supplied with adequate running hot and cold water (under pressure) from an approved supply.²⁷ The State Board of Health requires that soft drink bottling plants be equipped with an adequate supply of

safe, sanitary water in all areas where soft drink products are processed or where equipment, utensils, or containers are washed.²⁸ All water used in the manufacture of ice shall be approved and unapproved water supplies are prohibited.²⁹ All food-handling establishments³⁰ and shellfish harvesting, packing, or shipping plants³¹ must be provided with an adequate supply of water approved by the State Board of Health.

Miscellaneous:

The Regional Planning Commission shall advise local municipalities and counties as to action to take in solving problems of public water resources.³²

The Board of Water Commissioners, State Game and Fish Commission, Forestry Commission and the State Board of Health each appoint one director to serve on the Board of Directors of the Pearl River Valley Water Supply District, and these directors serve at the pleasure of the respective appointing boards.³³ Drainage districts may be organized for the purpose of reclaiming wet, swamp, or overflowed lands for agricultural and sanitary purposes; further, they shall have the power to construct a system of drains and levees over the lands of others and to alter, deepen, or improve any and all natural drains and water courses.³⁷ "Ditch" refers to branch or lateral drains, tile drains, levees, sluiceways, watercourses, floodgates, and any other construction work necessary for reclamation of wet and overflowed lands.³⁵ Also "benefits" and "betterments" are interchangeable words as are "ditches" and "drains".³⁶

FOOTNOTES

1. Miss. Code Ann. § 3519-08 (Supp. 1972).
2. Id. Also § 3598-01.
3. Id. Whenever bonds are issued for construction or purchase of waterworks, the governing authorities so issuing may provide by ordinance, contract, or otherwise, that the bonds shall be secured by a pledge of revenue from the utility in addition to the pledge of the full faith and credit of the municipality. Miss. Code Ann. 3598-03 (1956).
4. Miss. Code Ann. §§ 3519-08, 3374-112 (Supp. 1972).
5. Miss. Code Ann. § 3664-02 (1956).
6. Miss. Code Ann. § 3374-112 (Supp. 1972).
7. Id. §§ 3374-128, 3374-130.
8. Id. § 3374-130.
9. Miss. Code Ann. § 3374-120 (1956).
10. Id. § 3374-130.
11. Id. § 3374-136.
12. Id. § 2987.
13. Id. § 3592.
14. Miss. Code Ann. § 3614 (Supp. 1972).
15. Miss. Code Ann. § 3615 (1956).
16. Id. § 3617.
17. Id. § 3519-24.
18. Id. § 3519-06.
19. Id. § 3374-141.
20. Miss. Code Ann. § 7605-06 (Supp. 1972).

21. Id. § 2987.
22. Miss. State Board of Health, Regulation Governing Sanitary Control of
Public Water Systems.
23. Id. § 7015-56.
24. Id. § 8269.
25. Miss. State Board of Health, Regulation Governing Tourist, Cabin, Tent,
and Trailer Camps.
26. Miss. State Board of Health, Regulation Governing the Sanitation of
Habitable Buildings.
27. Miss. State Board of Health, Regulation Governing Barbering, Barber
Shops, and Barber Schools.
28. Miss. State Board of Health, Regulation Governing Soft Drink Bottling
Plants.
29. Miss. State Board of Health, Regulation Governing the Manufacture, Storage
and Handling of Ice.
30. Miss. State Board of Health, Regulation Governing Food and Food Handling
Establishments.
31. Miss. State Board of Health, Regulation Governing Harvesting, Packing,
and Shipping of Shellfish.
32. Miss. Code Ann. § 2890.5-03 (Supp. 1972).
33. Id. § 5956-54.
34. Miss. Code Ann. § 4579 (1956).
35. Id. § 4725.
36. Id. § 4628.

3. Disposal of Refuse.

Municipalities:

Municipalities may adopt sanitary codes dealing with general public health, safety, or welfare,¹ but such sanitary laws are subject to and may not be inconsistent with the rules and regulations of the State Board of Health.² Governing authorities of municipalities, after a proper hearing, may order that certain land, determined by them to be a menace to health and safety, be properly cleaned, including removal of rubbish, dilapidated buildings and other debris.³ Any municipality may own, operate, and maintain garbage disposal and rubbish disposal systems. They may enter into contracts, issue bonds, acquire property, and pass ordinances in order to provide effective service.⁴ Such disposal systems may be operated through a public utilities system established by the municipality.⁵ Governing authorities of municipalities may compel and regulate the removal of garbage and filth beyond the corporate limits.⁶ Counties and municipalities having a military camp, military air base, or artillery range within their jurisdictions may acquire, lease, construct, improve, or extend garbage and rubbish disposal systems.⁷ The Regional Planning Commission advises local municipalities and counties as to action to take in solving problems of garbage and refuse disposal.⁸

The Biloxi Port Commission requires that all refuse material of any kind must be deposited in refuse containers provided for that purpose and that no waste material may be thrown from any boat into yacht basins, harbors, or on the docks, piers, bulkheads or roadways.⁹ The Commission further provides that all tenant visiting boats, visitors and pedestrian traffic must comply with

all rules of the facility regarding litter in the small craft harbor.¹⁰

The Gulfport Code provides that the mayor and city council may, by resolution, designate property owned or leased by the city as city dumps. Further, it is unlawful for any person, firm, or corporation to bring material from outside the city into the city for the purpose of depositing the materials in the city dump. The dump may be used only between the hours of 7 a. m. and 6 p. m. , Monday through Saturday of each week.¹¹ The code further provides that it is unlawful for any person or group to place any waste or refuse upon streets, sidewalks, alleys, municipal buildings, playgrounds, parks, beaches, drainage pipes or ditches, or any other city property.¹² No person may allow any offensive liquid or substance to become prejudicial to health in any house, shop, store, factory, outhouse, yard, cellar, or lot.¹³ The code further states that it is unlawful for any person to place or store, or permit to be placed or stored, on any land situated within residential, Commercial A, or Commercial B districts of the city, any stock or quantity of barrels, boxes, paper, junked autos, or other trash or rubbish and to permit the same to remain there over 24 hours.¹⁴ It is also unlawful for any owner of a lot in the city abutting on any sidewalk to permit weeds, grass, or vegetable growth to grow over 12" (inches) high or to cover the sidewalk. The city council may abate the conditions at a cost not exceeding \$100, if the owner refuses to clean his property, and such cost is a lien against the property.¹⁵ It is the duty of every owner, occupant, or lessee of every building, residence, or business in the city to provide a sufficient number of metal containers, not to exceed 25 gallons, in which garbage, refuse, or trash may be accumulated.

Such containers must be equipped with a tight-fitting metal cover and with handles. All refuse capable of holding water must be drained before being deposited in the containers.¹⁶ It is unlawful for any owner, occupant, or lessee of any building, yard, or lot within the city to allow garbage to accumulate therein except when placed in corrugated metal containers.¹⁷ All vehicles hauling garbage within the city must have beds of tight construction to prevent the contents from falling upon the streets. Such vehicles must be covered with canvas or some comparable cover.¹⁸ The code makes it unlawful for any person to dump or cause to be dumped any garbage, refuse, or trash upon any public or private property of another located within the city without the prior consent of the owner.¹⁹

Any premises within the city, occupied or unoccupied, containing an unsanitary accumulation of filth or stagnant water which may endanger life or health or produce or aggravate sickness or disease is declared to be a nuisance. The city may require the owner to correct the situation or suffer a maximum fine of \$100 or thirty days in the city jail if he fails to comply.²⁰

The Pascagoula code makes it unlawful for any person to throw or deposit filth of any kind on any street, alley, sidewalk, yard or premises, public or private.²¹ The owner or occupant of any store or other place of business in the city must exercise reasonable diligence at all times to keep his premises clean of waste paper, cartons, package containers, and other used and waste materials thrown or left by customers. He must also take reasonable measures to prevent littering by placing trash receptacles and warning signs on premises.²²

The city may provide for the collection and disposal of garbage, refuse and trash; regulate the manner and times of collection and disposal; establish the rates to be charged; and make any other rules or regulations pertaining to garbage, refuse, and trash as may be necessary to assure the public health and welfare.²³ Every owner, occupant, or lessee of any building, residence or place of business in the city must provide a sufficient number of containers of metal (or other material as may be approved by the city manager) of not more than 30 gallons capacity in which garbage, refuse or trash may be accumulated.²⁴

It is unlawful for any owner, occupant or lessee of any building, yard or lot of ground within the city to allow garbage, refuse or rubbish of any kind to accumulate or remain in the building, or upon the yard or lot, except where the garbage, trash or refuse is placed in a container.²⁵ Trash cans or bins for use by commercial establishments must be constructed from approved materials, and must have a capacity sufficient to hold 3 days accumulation of trash.²⁶ All vehicles used in hauling garbage, trash or refuse of any kind must have beds of tight construction to prevent the contents from falling or sifting onto the street and must be covered with a canvas cover or some comparable cover, except when loading or unloading.²⁷ No one may dump or place any garbage, refuse or trash of any kind upon any public or private property of another located within the city without prior consent of the owner thereof.²⁸ It is unlawful to throw or deposit tin cans, boxes, paper, rubbish or any other material into any ditch, drain, or stream or in any way to inter-

fere with or obstruct the flow in such ditch, drain, or stream.²⁹ All garbage or refuse consisting of dead animal waste or vegetable matter upon which rats may feed must be placed and stored in suitable containers with tight fitting covers. In addition, it is unlawful for any person to dump or place on any premises, land or waterway, any dead animals, or any vegetable or animal waste matter of any kind. No person shall leave or dump, or permit to accumulate any garbage, rubbish or trash in any building or premises in the city. It shall be unlawful for any person to permit to accumulate on any premises any lumber, boxes, barrels, bricks, stones, or similar materials, unless it is placed on open racks that are elevated not less than 18 inches above ground, and evenly piled or stacked so that these materials will not afford harborage for rats.³⁰ All garbage must be kept in garbage cans, and garbage and rubbish must be collected and disposed of as frequently as may be necessary to insure that the garbage cans do not overflow.³¹ The licensee or permittee, or a duly authorized attendant or caretaker, must be in charge at all times to keep mobile home parks, facilities and equipment clean and sanitary.³²

State and County Agencies:

The Game and Fish Commission has control of waste material disposal into any waters within the territorial jurisdiction of the state and has authority to prescribe and enforce rules and regulations to protect and purify these waters.³³ Any person who pollutes any navigable stream by putting therein any refuse calculated to render the water less fit for drink or the sustenance of fish, is guilty of a misdemeanor and may be punished by a fine of not more than \$50 or by imprisonment in the county jail for not more than 30 days, or both.³⁴ It is also unlawful for any creosoting plant or sawmill to dump wastage

into any running stream. Any violator is guilty of a misdemeanor and may be fined a sum not less than \$25 nor more than \$100. Each day of violation constitutes a separate offense.³⁵

The State Board of Health establishes health and safety regulations for rock festivals in order to secure adequate refuse storage and disposal facilities.³⁶ The health officer is required to make reports to the Board of Health on all matters concerning sanitary conditions in the district and the county.³⁷ The State Board of Health establishes sanitary codes for house trailer camps, tourist camps, and house trailers, with special provisions for disposal and removal of garbage and all other waste or refuse substances and accumulations.³⁸ "Refuse" includes garbage, rubbish, ashes and all other putrescible and non-putrescible wastes (except sewage) from public and private establishments and residences.³⁹ Outside areas around habitable buildings must be kept free of loose garbage or other waste materials.⁴⁰ In soft drink bottling plants, all garbage shall, prior to disposal, be kept in leakproof, nonabsorbent containers which must be kept covered with tight-fitting lids. All containers must be cleaned after being emptied.⁴¹

Garbage from food handling establishments must be placed in tight containers with properly-fitting lids and disposed of according to the Board of Health regulations.⁴² Kitchen garbage and trash from institutions for the aged and infirm must also be placed in containers with tight-fitting lids and stored in screened or refrigerated space. These containers must be removed from the premises at frequent intervals.⁴³

FOOTNOTES

1. Miss. Code Ann. § 3374-80 (1956).
2. Id. § 7047.
3. Miss. Code Ann. § 3374-171 (Supp. 1972).
4. Id. § 3519-08.
5. Id. § 3519-07.
6. Miss. Code Ann. § 3374-116 (1956).
7. Id. § 2988.
8. Miss. Code Ann. § 2890.5-03 (Supp. 1972).
9. Biloxi, Miss. Port Comm'n, R. 5.
10. Id., R. 27.
11. Gulfport, Miss. Code § 13-2.
12. Id. § 13-3.
13. Id. § 13-4.
14. Id. § 13-5.
15. Id. § 13-6.
16. Id. § 13-12.
17. Id. § 13-13.
18. Id. § 13-16.
19. Id. § 13-17.
20. Id. § 14-3.

21. Pascagoula, Miss. Code § 14-3.
22. Id. § 14-4.
23. Id. § 14-19.
24. Id. § 14-20.
25. Id. § 14-21.
26. Id. § 14-23.
27. Id. § 14-24.
28. Id. § 14-25.
29. Id. § 15-34.
30. Id. § 15-58.
31. Id. § 19-13.
32. Id. § 19-14.
33. Miss. Code Ann. § 5929-04 (1952).
34. Miss. Code Ann. § 2414 (1956).
35. Id. § 2415.
36. Miss. Code Ann. § 7015-56 (Supp. 1972).
37. Miss. Code Ann. § 7083 (1956).
38. Miss. Code Ann. § 8269 (Supp. 1972).
39. State Board of Health, Regulation Governing Disposal of Refuse.
40. State Board of Health, Regulation Governing Sanitation of Habitable
Buildings.
41. State Board of Health, Regulation Governing Soft Drink Bottling Plants.

42. State Board of Health, Regulation Governing Food and Food Handling Establishments.
43. State Board of Health, Regulation Governing Standards for Institutions for the Aged or Infirm.

4. Private Business and Industry.

Municipalities:

Governing authorities have the power to inspect the machinery, appliances and premises of all proprietorships, partnerships or corporations owning or operating any public utility system, within their corporate limits, in order to determine whether the equipment or premises are being kept in a sanitary condition.¹ Public officers may determine a building unfit for human habitation, use or occupancy, if conditions are found which are dangerous or injurious to health, safety, or morals of persons using such buildings. Such conditions may include lack of adequate ventilation, light and sanitary facilities.² The legislative body of any municipality may regulate the height, number of stories, and size of buildings and other structures; percentage of lot occupied; size of yards, courts, open spaces; density of population; location and use of buildings and land for industry, residence or other purposes.³ The municipal body may divide the city into districts as may be best suited to carry out its purposes. Within these building districts it may regulate and restrict erection, construction, alteration, repair or use of buildings or other structures.⁴ Municipal governing authorities may also suppress hog pens, slaughterhouses, and stockyards, or provide, prescribe, and enforce regulations for cleaning or keeping them in order.⁵

The Gulfport code requires all hotels, restaurants, public boarding houses, and other food-handling establishments to remove all garbage and kitchen refuse daily.⁶ All trash cans used by commercial establishments must: (1) be constructed from approved materials; (2) have a 3-day trash capacity; and (3) have

tight-fitting covers.⁷

Counties:

The county board of supervisors, acting through the county port authority or county development commission, may establish industrial parks. In such developments, it may provide water, sewage disposal, drainage, and transportation.⁸

The board of supervisors, acting through the county port authority and under the supervision of the Mississippi Agricultural and Industrial Board may lease lands held for port use to individuals, firms, or corporations if conditions for safeguarding the public interest are met and included.⁹

The corporate authorities of municipalities may lease or convey lands to individuals, firms, or corporations for industrial operations when the municipality has a port of entry harbor (provided such transactions include safeguards for the public interest).¹⁰ The governing authorities of a municipality having: (1) a port or harbor through which commerce flows; (2) not less than 8 seafood industries; and (3) a channel and/or harbor of not less than 8 feet in depth, may provide cold storage facilities for such industries.¹¹ The Port Commission may cooperate and join with the municipality by leasing or conveying lands needed for the establishment of industries when approved by certificate of public convenience and necessity. It may join with the municipality in the execution of contracts and leases, to industries. Furthermore, these instruments are subject to revision or termination in the event of industry abandonment or non-compliance with the terms of the instrument.¹² The Port Commission may

sell, lease, or dispose of lands not used for port purposes when such disposition will not impede navigation or commerce.¹³

State Agencies:

The State Board of Health may investigate any complaints in the nature of nuisance, health, or property hazard in regard to anhydrous ammonia storage facilities. It may, after a hearing, decide complaints to be well founded and order such situation to be corrected or the facility condemned.¹⁴ The State Health officer may enforce the Oleomargarine Act - Miss. Code Ann. §§ 7129-40 - 47 (1956) and may enter the premises of any manufacturer, processor, refiner, retailer, or wholesaler of oleomargarine, for the purposes of collecting samples for analysis or making necessary investigations.¹⁵ Further, the State Board of Health may regulate, approve, and inspect frozen food locker plants in the state and establish and enforce standards regarding construction of plant and equipment, sanitation and cleanliness, required temperatures and wrapping of stored food.¹⁶

Injurious waste substances must not be permitted to be co-mingled with municipal sewage and then emptied into waters of the state. The Game and Fish Commission may prescribe and enforce rules and protect and purify the waters of the state. It may prescribe standards of purity for waste treatment plants.¹⁷ It is unlawful for any creosoting plant or sawmill to dump wastage into running streams; violations are deemed to be misdemeanors and a sum of not less than \$25 nor more than \$100 for each offense may be charged, with each day of violation constituting a separate offense.¹⁸ The Pearl River Industrial

Commission may make studies investigating the possibilities of developing areas to attract new industries, and to conserve available water. The Commission also has the duty to cooperate with the State Water Control Board in adopting plans to control pollution caused by industrial waste.¹⁹

It is unlawful for any person, firm, corporation or association to have in its possession or dispose of hog cholera virus except at Mississippi State College and under the supervision of a licensed veterinarian with a special written permit from the State Livestock Sanitary Board. "Hog cholera virus" is an unattenuated virus administered to swine for the purpose of immunizing them from the disease of cholera.²⁰ Prior to the sale of any baby chicks (except public sales by farmers selling chicks raised on their own premises) a permit must be granted by the Livestock Sanitary Board or the State Veterinarian.²¹ No person, firm or corporation may sell or offer for sale any biologics, drugs, remedies, tonics, medicines or other health preparation to be administered to livestock, poultry or other animals until the same has been registered with and approved for distribution by the Livestock Sanitary Board.²²

Representatives of the State Board of Health may enter industrial establishments in order to make sanitary and safety inspections.

"Industrial establishments" includes all places of employment in which articles are manufactured, repaired, cleaned, sorted, or renovated for profit, sale or compensation.²³ The State Board of Health prohibits any firm or corporation from maintaining or creating a condition which is conducive to the breeding, feeding, or harboring of flies, mosquitoes, rats, or other vermin in sufficient

numbers to create a public health hazard.²⁴ During all business hours, barber shops and barber schools must be open for inspection by official representatives of the State Board of Health.²⁵ No barber shop, pressing shop, shoe repair shop or other business that may present a public health hazard may be operated or maintained in a food-handling establishment; nor shall a food-handling establishment be used as a common entrance to any such business.²⁶ All ice plants,²⁷ soft drink bottling plants,²⁸ and shellfish packing plants,²⁹ must be constructed so as to provide the most advantageous arrangement for sanitary purposes.

FOOTNOTES

1. Miss. Code Ann. § 3519-27 (1956).
2. Miss. Code Ann. § 3503 (Supp. 1972).
3. Id. § 3590.
4. Miss. Code Ann. § 3591 (1956).
5. Id. § 3374-116.
6. Gulfport, Miss. Code § 13-14.
7. Id. § 13-15.
8. Miss. Code Ann. § 7605-06 (Supp. 1972).
9. Id. § 7605.23.
10. Id. § 7558.
11. Id. § 7591.
12. Miss. Code Ann. § 7549.7-05 (1956).
13. Id. § 7549.7-02.
14. Id. § 5104-11.
15. Id. § 7129-43.
16. Id. §§ 7129-48 - 48.19.
17. Miss. Code Ann. § 5929-04 (1952).
18. Miss. Code Ann. § 2415 (1956).
19. Miss. Code Ann. § 5956-41 (Supp. 1972).
20. Miss. Code Ann. § 4863 (1956).
21. Id. § 4863-01.
22. Miss. Code Ann. § 4862-02 (Supp. 1972).

23. State Board of Health, Regulation Governing Safety of Industrial Establishments.
24. State Board of Health, Regulation Governing Control of Flies, Mosquitoes, Rats and Vermin.
25. State Board of Health, Regulation Governing Barbering, Barber Shops, and Barber Schools.
26. State Board of Health, Regulation Governing Food and Food Handling Establishments.
27. State Board of Health, Regulation Governing the Manufacture, Storage and Handling of Ice.
28. State Board of Health, Regulation Governing Soft Drink Bottling Plants.
29. State Board of Health, Regulation Governing the Harvesting, Packing, and Shipping of Shellfish.

5. Public Gatherings.

The State Board of Health prepares rules and regulations governing the proper sanitation of public buildings, railroad depots, railway coaches, and sleeping cars operating in the state.¹ It is also the duty of the State Board of Health to investigate the sanitary conditions of schools, prisons, public institutions, railroad and street cars, and all buildings and places of public resort.²

The State Board of Health establishes health and safety regulations for rock festivals to assure that public health and safety is not endangered.³ The county board of health must inspect the site of rock festivals or similar events with 48 to 72 hours before the event and notify the permit holder of any non-compliance. The Board of Health will notify the sheriff if the permit holder fails to comply.⁴ A fine of \$10,000 may be imposed for holding or sponsoring a rock festival without a valid permit. An additional \$1,000 fine is imposed for holding such an event in violation of a certification issued by the State Board of Health.⁵

The State Board of Health may establish sanitary regulations for house trailers, house trailer camps, or tourist camps. No such facilities may be located or operated in the state without complying with health regulations. Violation of health regulations is a misdemeanor with each day's violation constituting a separate offense.⁶

The Board of Supervisors of the Pearl River Valley Water Supply District is authorized to adopt regulations governing hunting, fishing, camping, boating, vehicle parking and other recreational privileges around reservoirs on district-owned land.⁷

FOOTNOTES

1. Miss. Code Ann. § 7054 (1956).
2. Miss. Code Ann. § 7029 (Supp. 1972).
3. Id. § 7015-56.
4. Id. § 7015-58.
5. Id. § 7015-60.
6. Id. § 8269.
7. Id. § 5956-64.

6. Control of Insects and Rodents.

a. Regional Control.

The Regional Planning Commission advises local municipalities and counties on problems of mosquito control.¹ The county board of supervisors may appoint a three member county Mosquito Control Commission, with staggered three year terms. These appointments must be approved by the State Health Officer. The three members of the Mosquito Control Commission are the county agricultural extension agent, the county health officer, and a rice producer. They are appointed by the board of supervisors for a three year term. The agricultural agent and the health officer are permanent members.² The commission may sue and be sued, make by-laws, and choose a president and treasurer. In addition, the commission may employ a director trained in mosquito control operations and other necessary personnel.³ The Director of the State Board of Health is an ex-officio member of each county mosquito control commission. Upon request, the Board of Health may furnish such surveys, maps, information, and advice as may be available.⁴ Two or more counties may combine to form a commission with the county in which work is performed paying the costs.⁵

b. County Control.

The county board of supervisors and commission, with the approval of the State Health Officer, may receive and accept aid from any source which will further the success of plans.⁶ The commission may eliminate the breeding and producing places of mosquitoes within the county.⁷ The Rice Field Mosquito Act is designed to provide a method for control and extermination of "rice field mosquitoes". However, the act does not apply to Hancock, Harrison, and Jackson Counties.⁸

The Mosquito Control Commission may make by-laws, rules, and regulations necessary to carry out its duties and may provide for regular meetings.⁹ The commission first determines a feasible method of mosquito control. The estimated cost of such a control method is based upon the number of acres of rice to be planted in the county in the next crop year, the cost of poison or other material, and the cost of administering the program. This information is submitted in an annual report to the board of supervisors.¹⁰ After determining a feasible method of mosquito control, the commission may require all rice producers in the county to obtain permits, the fee for which are based on acreage devoted to rice production for the following year.¹¹ Personnel employed by the commission have the right to go upon lands and apply poison for control.¹²

If the proper permit is not obtained, the permit cost and penalties become a lien against all rice grown by the persons failing to comply.¹³ In addition, anyone wilfully refusing to comply with the Rice Field Mosquito Act is guilty of a misdemeanor and may be fined up to \$500, imprisoned in the county jail for up to 90 days, or both.¹⁴

The board of supervisors and the Mosquito Control Commission are authorized to accept funds from any state or federal agency in carrying out these provisions.¹⁵ If the board of supervisors decides that a county mosquito control program is not feasible, or that the need for one no longer exists, the board may abolish the commission and terminate the program. Any funds on hand will be placed in the general fund of the county.¹⁶ In order to appoint the three member commission, 50 or more qualified electors of the county must sign a petition

requesting the creation of such a commission.¹⁷ The above provisions do not
 apply to the counties bordering on the Mississippi Sound or the Gulf of Mexico.¹⁸

C. City Control.

~~The~~ Gulfport code provides that any firm, person, or corporation owning
 or controlling any building, house, or residence in the city must keep it in a
 sanitary condition.¹⁹ In addition, all business buildings in the city must be free

of rats.²⁰ Whenever conditions in business buildings provide extensive harbor-
 age for rats, the county health department may require the owner to take
 necessary measures to eradicate the rats.²¹ All garbage or other material

which is left in such a manner as to provide harborage for rats is prohibited
 and must not be allowed to accumulate.²² Spars, ropes or lines attached to
 boats must be equipped with rat shields or guards approved by the health officer.²³

It is unlawful to maintain any collection of standing or flowing water in
 which mosquitoes may breed unless it has been treated to prevent breeding.²⁴
 The methods of treatment of collections of water to prevent breeding of mos-
 quitoes include screening with wire mesh; emptying every 7 days of unscreened
 containers; using an approved larvicide; covering the surface every 7 days
 with kerosene, petroleum, or paraffin oil; eliminating vegetable growth and
 stocking with mosquito destroying fish; filling or draining to the satisfaction of
 the health officer; and disposing of tin cans, tin boxes, broken or empty bottles,
 and similar articles likely to hold water.²⁵ It is unlawful to deposit tin cans,

boxes, paper or rubbish in any ditch, drain, or stream so as to obstruct its
 flow.²⁶

The natural presence of mosquito larva in standing or running water

is evidence that mosquitoes are breeding there. Failure to prevent such breeding within 3 days after notice by the health officer is deemed a violation of the code²⁷ and will result in the assessment of the cost of prevention against the offending person.²⁸

The health officer, in enforcing these rules, may enter upon any premises within his jurisdiction. Any person failing to assume the duties imposed upon him by the code within the stated time is guilty of a misdemeanor with each day's violation constituting a separate offense.²⁹ The owner of the premises is responsible for correction of mosquito breeding conditions.³⁰ The maximum fine for violation of these provisions is \$100, and the maximum imprisonment is 10 days.³¹

The State Highway Commission may expend its funds in cooperation with the State Plant Board, the United States Government, or any other agency, to control, suppress, or eradicate serious insect pests, rodents, plant parasites and plant diseases on the state highway rights-of-way.³²

The Mississippi Forestry Commission must be informed of pine beetles and other timber insects and diseases. The commission may make rules and regulations to deal with these insects; inspect timber and timber products; and investigate and control pine beetles and other timber insect pests. It may also supervise the destruction of infested timber or timber products. All varieties of the pine beetle and similar timber insect pests are considered to be public nuisances.³³

The board of supervisors in any county is authorized to appropriate

money from the general fund of the county for use in cooperation with the State Livestock Board, the United States Department of Agriculture and the Bureau of Animal Industry. These funds are used in eradicating cattle ticks and other animal parasites.³⁴

The State Veterinarian or his authorized agent determines whether a county is partially or completely infested with cattle ticks. The board of supervisors must then institute an immediate program of tick eradication.³⁵ After notification by the State Veterinarian, the board will provide dipping vats, chemicals, and other necessary materials to be used in tick eradication.³⁶ The board of supervisors may request the technical assistance of the State Livestock Sanitary Board.³⁷ Owners of livestock who refuse or fail to comply with the eradication program are guilty of a misdemeanor punishable by a fine of not more than \$500 or imprisonment in the county jail for not more than 30 days. Such owners are also liable for any damages resulting from the violation.³⁸

The Board of Agricultural Aviation may adopt rules and regulations necessary to regulate the application of chemicals and pesticides which create an unusual hazard to the health, safety, and welfare of the public.³⁹

The State Board of Health establishes health and safety regulations for rock festivals in order to provide for insect control.⁴⁰ The Board of Health will prohibit any owner or lessee of public or private premises from permitting an accumulation of any refuse which might provide a harborage of breeding place for rodents, insects, and other vermin.⁴¹ All habitable buildings,⁴² toilet rooms,⁴³ food-handling establishments,⁴⁴ ice plants,⁴⁵ soft drink bottling

plants,⁴⁶ institutions for the aged and infirm,⁴⁷ crab meat and cooked shrimp packing and shipping plants,⁴⁸ and shellfish packing and shipping plants⁴⁹ must be kept clean and free of flies, rodents, and other insects and vermin. The State Board of Health regulations further provide that no firm, person, or corporation may maintain or create a condition which is conducive to the breeding, feeding, or harboring of flies, mosquitoes, rats, or other vermin in sufficient numbers to create a public health hazard.⁵⁰

FOOTNOTES

1. Miss. Code Ann. § 2890.5-03 (Supp. 1972).
2. Id. § 7106-03.
3. Miss. Code Ann. § 7097 (1956).
4. Id. § 7098.
5. Id. § 7099.
6. Id. § 7100.
7. Id. § 7101.
8. Miss. Code Ann. § 7106-01 (Supp. 1972).
9. Id. § 7106-05. The ad provision for special meetings.
10. Id. § 7106-07.
11. Id. § 7106-08.
12. Id. § 7106-12.
13. Id. § 7106-13.
14. Id. § 7106-14.
15. Id. § 7106-15.
16. Id. § 7106-17.
17. Id. § 7106-18.
18. Id.
19. Gulfport, Miss. Code § 14-41.
20. Id. § 14-42.
21. Id. § 14-47.

22. Id. § 14-50.
23. Id. § 14-51.
24. Id. § 14-62.
25. Id. § 14-63.
26. Id. § 14-64.
27. Id. § 14-65.
28. Id. § 14-66.
29. Id. § 14-67.
30. Id. § 14-68.
31. Id. § 14-69. The Pascagoula Code has similar provisions for mosquito control. See Pascagoula, Miss., Code §§ 6-6, 15-32, 15-38, 15-49, 15-50, 15-51, 15-52, 15-53.
32. Miss. Code Ann. § 8038 (Supp. 1972).
33. Id. § 6023.05.
34. Miss. Code Ann. § 4848 (1956).
35. Id. § 4850.
36. Id. § 4851.
37. Id. § 4861.3(3).
38. Id. § 4861.3(6).
39. Miss. Code Ann. § 5011-05 (Supp. 1972).
40. Id. § 7015.56.
41. State Board of Health, Regulation Governing Disposal of Refuse.
42. State Board of Health, Regulation Governing Sanitation of Habitable Buildings.

43. State Board of Health, Regulation Governing Public Toilets.
44. State Board of Health, Regulation Governing Food and Food Handling Establishments.
45. State Board of Health, Regulation Governing Manufacture, Storage, and Handling of Ice.
46. State Board of Health, Regulation Governing Soft Drink Bottling Plants.
47. State Board of Health, Regulation Governing Standards for Institutions for Aged and Infirm.
48. State Board of Health, Regulation Governing Preparation, Packing, Sale, and Shipping of Crabmeat and Cooked Shrimp.
49. State Board of Health, Regulation Governing Harvesting, Packing, and Shipping of Shellfish.
50. State Board of Health, Regulation Governing Control of Flies, Mosquitoes, Rats, and Other Vermin.

7. Contagious Diseases.

Municipalities:

Governing authorities of municipalities have power to make regulations to prevent the introduction and spread of contagious or infectious diseases; to make quarantine laws to be enforced within 5 miles of municipality's corporate limits; to establish pesthouses outside corporate limits and to provide additional regulations prohibiting and controlling the movement of individuals where such movement presents a danger to the health and welfare of the public.¹ Governing authorities of municipalities meeting requirements set forth by Mississippi Code Annotated § 3374-153 (Supp. 1972) have power to destroy dogs running at large without proper rabies vaccination identification.² Municipalities are authorized to appropriate money for the control, eradication, and suppression of contagious or infectious diseases and for the promotion and betterment of public health. Expenditure of such appropriated money is subject to the approval of the municipality making the appropriation.³

The Gulfport Code provides that all physicians, hotel keepers, superintendants or principals of schools (public or private), officers in charge of public institutions or factories, and the heads of families in the city report within 24 hours to the health officer all cases of yellow fever, cholera, smallpox, varioloid, scarlet fever, diphtheria, chicken pox, whooping cough, mumps, measles, or other contagious diseases of their knowledge. It is unlawful for any such person to fail to report such diseases.⁴ Venereal diseases including syphilis, gonorrhea, and chancroid are declared to be dangerous to public health. Any female or male afflicted with VD who, knowing of their condition, has sexual

intercourse with anyone, is guilty of a misdemeanor. Further, whenever any person charged with prostitution or related offenses is arrested, the officer making such arrest entry on the jail docket must report the name, address, and charge against the person to the health officer, who has full authority to examine the arrested person for the presence of VD. If such disease is found, the diseased person is required by law to submit to the proper treatment and is confined to an isolated individual cell.⁵ All physicians practicing in the city report to the U. S. Public Health Service, the State Board of Health or the county health officer, all cases of disease. The reporting of such diseases is required by law.⁶ All physicians practicing in the city also placard the premises infected with chicken pox, asian cholera, diptheria, dysentary, influenza, leprosy, measles, epidermis cerebrospinal meningitis, mumps, poliomyelitis, scarlet fever, small-pox, typhoid fever, whooping cough, and yellow fever.⁷

The Pascagoula Code provides that it is the duty of each physician in the city, householder, parent, and teacher, principal or superintendent of schools to report to the health officer, mayor or mayor pro tem, any and all infectious or contagious diseases, rashes, or skin abrasions coming under or within his observation and care. In the event that any student becomes afflicted with any such disease, rash or abrasions, he is not allowed to attend the public schools in the city until seen and treated by a physician or health officer.⁸

Counties:

The board of supervisors in a county where smallpox exists may pass ordinances for compulsory vaccination, and may apply to the secretary of the

State Board of Health for the necessary vaccine. The county health officer may obtain the bovine virus elsewhere if the state board of health is unable to furnish it. The board of supervisors may contract with physicians to do the vaccinating, and the cost of the vaccine and the vaccinating is borne by the county.⁹ Boards of supervisors may appropriate money out of the general fund to assist in eradicating tick fever, lice, parasites, and any other contagious and infectious diseases of livestock or the causes of these diseases.¹⁰

If the State Veterinarian determines that a county is infested with the cattle tick, the board of supervisors of the county immediately takes up the work of systematic tick eradication.¹¹ The board of supervisors, after being notified by the State Veterinarian that the cattle tick is known to exist in their respective counties, provides such number of dipping vats as may be fixed by the state veterinarian or his authorized representative, and provides the proper chemicals and other materials necessary to be used in the work of systematic tick eradication in the counties.¹² Anyone owning cattle or other livestock in any county where tick eradication is taken up, has such cattle or other livestock dipped regularly every 14 days at such time and places and in such manner as may be designated by the livestock inspector.¹³ The cattle or livestock of any owner who fails or refuses to dip such cattle or livestock after receiving notice, are dipped, quarantined and placed in the custody of the sheriff, by the livestock inspector. Suitably fenced areas for holding such cattle while in the custody of the sheriff are provided by the board of supervisors.¹⁴ The board of supervisors of any county, upon designating an area for dipping livestock to eliminate ticks, flies, or other nuisance insects, requests the technical assistance of

the State Livestock Sanitary Board. This board cooperates in general planning, technical supervision, furnishing specifications for vats and other equipment, selecting approved chemical agents and testing them for effectiveness.¹⁵

Counties may, in their discretion, establish areas composed of one or more counties for the purpose of cooperating with the State Livestock Sanitary Board and the U. S. Bureau of Animal Industry, separately or jointly, in providing for a program of control and eradication of certain diseases of livestock and poultry within such area established.¹⁶ All pens, stalls, barns, or other places where livestock are placed or held for exhibits or shows at all fairs and all community sale barns within the state are sprayed with an approved insecticide before any animals are placed therein and immediately after removal of such animals.¹⁷

State Agencies:

The duty of the county health officer is to enforce the rules of the State Board of Health in the prevention and control of contagious or infectious diseases in his county, to investigate the causes thereof, and to recommend rules to remedy the situation. The county health officer also inspects schools, markets, and other public buildings for sanitary conditions and reports to the board of supervisors and to the State Board of Health.¹⁸ When one suffering with smallpox, yellow fever, or other contagious disease, is isolated by the county health officer, under State Board of Health rules, the board of supervisors of the county pays the expenses of isolating the sick person, disinfecting the premises, and (at its discretion) for medicine and services of physicians in suppressing the disease.¹⁹

The governor, when advised by the State Livestock Sanitary Board that an emergency exists due to the presence of foot-and-mouth disease, rinderpest,

contagious pleuropneumonia, or other contagious or infectious diseases of animals, or European fowl pest and similar diseases among poultry, is authorized to declare a state of emergency and to order all animals or poultry quarantined or slaughtered that may be affected with those diseases. In order to fulfill the purposes of such a state of emergency, the governor has full and complete police power.²⁰ The State Livestock Sanitary Board is authorized to expend monies not exceeding \$2,000 from funds appropriated by Chapter 68, General Laws of Mississippi of 1944, for the payment of bounties for killing foxes in such areas as the board determines; provided, however, that not more than \$2.00 per head is paid as a bounty for each fox killed.²¹

It is unlawful for any person, firm, corporation or association to have in possession or keep, sell or offer for sale, barter, exchange, give away or otherwise dispose of hog cholera virus, except at Mississippi State University and under the supervision of a licensed veterinarian and with a special written permit issued by the State Livestock Sanitary Board. "Hog cholera virus" means an unattenuated virus administered to swine for the purpose of immunizing such swine from the disease known as hog cholera.²² The board has plenary power to deal with all contagious and infectious diseases of animals which in the opinion of the board may be prevented, controlled or eradicated, and full power to make, promulgate and enforce such rules and regulations as in the judgment of the board may be necessary to control, eradicate, and prevent the introduction and spread of said diseases.²³ The board has the power to quarantine all herds of cattle, for further testing, where reactors are disclosed or found by private tests, auction barn sale tests, market cattle tests of slaughter cattle and dairy herds that are suspicious to the brucellosis ring test (milk).²⁴ Any person, firm or corporation

violating any of the provisions or rules and regulations of the Livestock Sanitary Board, relative to the control and eradication of contagious and infectious diseases of animals, is guilty of a misdemeanor and, upon conviction, is fined not less than \$25 nor more than \$500 or imprisoned in the county jail for not longer than 6 months, or both.²⁵ Systematic dipping, under the direction of the state veterinarian, of all cattle, horses, jacks, jennets and mules infested with or exposed to the cattle tick, is taken up as soon as practical in all counties or portions of counties which are found partially or completely infested with the cattle tick.²⁶

It is unlawful for any person or persons, firm or corporation to drive, convey, transport or allow to drift from any state or territory, into this state, any livestock except under the supervision and in accordance with the rules and regulations of the State Livestock Sanitary Board. Steers may be removed into the state for feeding and grazing purposes under special permit issued by the State Veterinarian.²⁷

The Commissioner of Agriculture may promulgate rules and regulations relating to the disposal of dead and diseased swine designed to eradicate infectious and contagious diseases of swine.²⁸ Wild animals or birds may be killed out of season if done for the purpose of eradicating disease among animals.²⁹

The executive committee of the Department of Public Health is the bureau on state medicine of the department with duties including: (1) encouraging investigation of epidemic diseases in the state with reference to proper prevention and treatment thereof and; (2) distributing health circulars in localities of the state to heads of families to prevent the spread or mortality of infectious and contagious diseases.³⁰ The committees appointed by the Department of Public Health will

investigate hospitals and like institutions and make recommendations in the interest of public health and investigate the cause and prevention of epidemics.³¹ The bureau of vital statistics of the Department of Public Health obtains vaccine at the expense of the State Board of Health to be furnished to the county board of health free of charge and vaccinates, without charge, public school children and indigent persons who apply for vaccinations.³²

The State Board of Health, when informed by a county health officer of the existence of any matter or thing calculated to produce or cause the spread of an epidemic or contagious disease, may declare it a nuisance and may then notify the district attorney, county attorney, municipal attorney, county or municipal health officer, or town marshall where the nuisance exists who commences proceedings in circuit court to abate the nuisance.³³ It is the duty of the State Board of Health to investigate causes and means of prevention of endemic and epidemic diseases, sources of mortality, and the effect of localities, habits employments, and conditions upon public health.³⁴ The Board of Health may also establish quarantine stations whenever the Board deems it necessary to prevent introduction or spread of yellow fever and other infectious and contagious diseases.³⁵ In case of the appearance of yellow fever, cholera, dengue, smallpox, or any other virulent, epidemic, contagious diseases in the state, the Board may take charge of the infected district and enforce such rules and prescribe such measures as are necessary to prevent the spread of the disease or to suppress it.³⁶ The State Board of Health has the power to quarantine common carriers and to stop within the lines of any municipal or county quarantine any person

or thing excluded by quarantine when necessary to enable it to investigate a reported case of yellow fever or other contagious or infectious disease.³⁷ No person suffering from, convalescing from, or suspected of having contagious or infectious disease, or having been recently exposed to or being a carrier of such a disease, shall be employed in or frequent any habitable building,³⁸ food-handling establishment,³⁹ ice plant,⁴⁰ crab-meat and cooked shrimp packing and shipping plant,⁴¹ shellfish packing and shipping plant,⁴² soft drink bottling plant,⁴³ barber shop or barber school,⁴⁴ or institution for the aged or infirm,⁴⁵ until such person submits evidence satisfactory to the health officer of freedom of any such disease. A carrier is one who, without signs or symptoms, harbors and disseminates the specific agent of a communicable disease.

The report includes the patient's name, address, age, race, sex, disease, and date of onset of disease. These reports are confidential.⁴⁶ In addition, it is the duty of all tourists, cabin, tent and trailer camp owners or managers to report suspected diseased persons immediately to the health officer.⁴⁷

FOOTNOTES

1. Miss. Code Ann. § 3374-132 (Supp. 1972).
2. Id. § 3374-153.
3. Miss. Code Ann. § 7088 (1956).
4. Gulfport, Miss. Code § 14-80.
5. Id. § 14-81.
6. Id. § 14-82.
7. Id. § 14-83.
8. Pascagoula, Miss. Code § 15-21.
9. Miss. Code Ann. § 7034 (1956).
10. Id. § 4848.
11. Id. § 4850.
12. Id. § 4851.
13. Id. § 4854.
14. Id. § 4856.
15. Id. § 4861. 3.
16. Id. § 4861. 5.
17. Id. § 4861. 7.
18. Id. § 7036.
19. Id. § 7035.
20. Id. § 4847. 5.
21. Id. § 4863-10.
22. Id. § 4863.

23. Miss. Code Ann. § 4837 (Supp. 1972).
24. Id. § 4837.5.
25. Id. § 4847.
26. Miss. Code Ann. § 4849 (1956).
27. Id. § 4862.
28. Miss. Code Ann. § 4575-211 (Supp. 1972).
29. Id. § 5883.
30. Miss. Code Ann. § 7022 (1952).
31. Id. § 7019.
32. Id. § 7021.
33. Id. § 7037.
34. Miss. Code Ann. § 7029 (Supp. 1972).
35. Miss. Code Ann. § 7038 (1956).
36. Id. § 7039.
37. Id. § 7045.
38. State Board of Health, Regulation Governing Sanitation of Habitable Buildings.
39. State Board of Health, Regulation Governing Food and Food Handling Establishments.
40. State Board of Health, Regulation Governing Manufacture, Storage and Handling of Ice.
41. State Board of Health, Regulation Governing Preparation, Packing, Sale, and Shipping of Crabmeat and Cooked Shrimp.
42. State Board of Health, Regulation Governing Harvesting, Packing, and Shipping of Shellfish.

43. State Board of Health, Regulation Governing Soft Drink Bottling Plants.
44. State Board of Health, Regulation Governing Barbering, Barber Shops, and Barber Schools.
45. State Board of Health, Regulations Governing the Standards for Institutions for the Aged and Infirm.
46. State Board of Health, Regulations Governing Reportable Diseases.
47. State Board of Health, Regulation Governing Tourist, Cabin, Tent, and Trailer Camps.

III. HEALTH

B. Public Health Facilities.

1. County and Municipal.

(a) County and District Health Departments.

Each county may create a department of health and appoint a full time director, who must be a graduate physician recommended by the State Board of Health. Two or more counties may join to form a sanitary district, with a director chosen in the same fashion. Although the creation of such a county or district department abolishes all local public health agencies, municipalities may contribute to the county or district department. The county and district departments are under the jurisdiction of the State Board of Health.¹

The director of the county or district health department ("County Health Officer") is authorized to enforce all health laws of the county or district, under the supervision of the State Board of Health. He may also investigate and make recommendations concerning health problems and sanitary conditions in his county or district; in fact, he must report his findings to the State Board of Health.² When the county health officer informs the State Board of Health of the existence of any substance or matter which may cause an epidemic or spread of contagious diseases, the Board may declare it a nuisance. The county health officer may then commence proceedings in circuit court to abate the nuisance.³ For example, dead bodies, unless embalmed or refrigerated, may create a nuisance if not buried or cremated within 48 hours of death, and disinterment permits must be obtained from the county health officer.⁴

In counties where smallpox exists, the county board of supervisors is empowered to require compulsory vaccinations, and the county health officer may obtain the vaccine from any available source if the supervisors are unable to get it from the State Board of Health.⁵

(b) County Board of Health.

The county officer is also the chairman of the county board of health, which is appointed by the Bureau of Vital Statistics of the State Department of Public Health. The county board of health consists of one physician from each supervisor's district plus the county health officer. The county board of health records and maintains statistics on births, deaths and infectious diseases in the county. The county health board is also authorized to procure vaccine from the State Department of Public Health for free vaccination of public school children and indigents, or to furnish free vaccine to the county health officer.⁶

The county board of health is required to inspect the site of any planned rock festival or similar gathering 48 - 72 hours before the event and to notify the permit holder of any non-compliance with plans certified by the State Board of Health. If the permit holder does not comply within 24 hours the county board of health notifies the sheriff,⁷ who will revoke the permit. If the event is held anyway, the sponsors may be fined up to \$10,000 (or \$20,000 if no permit at all).⁸

(c) Hospitals, Nursing Homes, and Health Centers.

Any county, city, town, supervisory district, judicial district or election district may acquire and hold real estate for hospitals, nursing homes, health

centers, and diagnostic or treatment centers, and may thereon establish and operate such facilities. Counties, municipalities, or subdivisions, acting singly or jointly, may contract with state or federal agencies or with other cities to form hospital, health care or nursing home districts or areas. If acting jointly, each subdivision should bear its appropriate cost. The counties or subdivisions may also contract with nonprofit corporations for building or operating these facilities, and may lease the facility to the nonprofit corporation for up to 50 years if approved by the State Commission on Hospital Care. The nonprofit corporation may be sued for breach of the lease. If the nonprofit corporation operates the hospital, there is no need for a board of trustees.

Municipalities may purchase real estate inside or outside the corporate limits for hospital construction,¹⁰ and may issue negotiable bonds to finance construction, repair or improve the hospitals within corporate limits or within three miles of corporate limits.¹¹ Recreational districts may also authorize project health centers and hospitals within a recreational area.¹²

The county board of supervisors has authority to appoint the Board of Trustees for the county's health facilities, and may also provide facilities for expanded health services.¹³ The board of supervisors is also authorized to provide homes or asylums for persons who, by reason of age, infirmity or misfortune, need the aid of society.¹⁴ For the purposes of the State Board of Health's minimum standards, an institution for the aged or infirm is a place (governmental or private) which provides group-living arrangements for four or more persons who are unrelated to the operator and who are being provided food, shelter and personal care; and includes intensive nursing care facilities

[registered professional nurse (R. N.) on duty at all times], skilled nursing care facilities [R. N. or licensed practical nurse (L. P. N.) on duty at all times], intermediate nursing care facilities [supervision by either R. N. or L. P. N.], and personal care homes (for those not in need of nursing care).¹⁵

The Board of Trustees may appoint an Administrator to run the hospital and delegate the necessary powers to him. The Board is in charge of maintaining the facilities, and may sue in its own name on behalf of the hospital to collect money due. The Board may also obtain liability insurance, and, if insured, may be sued; however, sovereign immunity is waived only to the extent of insurance coverage, and the insurance is not to be mentioned in court. If the award is in excess of insurance coverage, the court will reduce the award until it falls within policy coverage. The Board may authorize a child care center for the benefit of its employees and other hospital personnel and, where necessary, may acquire additional land for its construction. The center is subject to licensing and inspection.¹⁶ The Board may also offer in-patient, out-patient, extended and home care, and rehabilitation facilities for the aged or handicapped, along with other comprehensive health care services. The Board may provide and maintain residences in the hospital for selected personnel to promote efficiency and may lease these for up to 25 years.

The Board can receive funds from any source, including charges for the hospital and health services listed above, and such charges will be at rates comparable to those for similar institutions.¹⁷ The Board may contract with anyone for the operation of charity facilities, and must submit its annual budget to the governing authorities of affected subdivisions by the first Monday in September, with

the budget to be approved by the first Monday in December.¹⁸ Where a hospital has been established in accordance with these laws and is owned and operated by a political subdivision, the subdivision's governing authorities may obtain the necessary authority by adopting a resolution giving the Board of Trustees the powers listed above.¹⁹ Hospitals established under these statutes may fix fees for both paying patients and charity patients and maintain wards for both.

(d) Municipal Health Powers.

The governing authorities have the power to secure the general health of the community.²⁰ Any municipality may adopt building codes, plumbing codes, electrical codes, gas codes, sanitary codes and other codes dealing with public health, safety, and welfare. These codes are filed with the clerk, and public notice of their adoption must be given.²¹ For example, the City of Pascagoula prohibits burial in places other than designated cemeteries, and allows the city health officer to issue notices to responsible persons to abate nuisances caused by stagnant water, filth or other unsanitary or offensive conditions. Failure to comply is a misdemeanor, and the nuisance may be abated by the city at the owner's expense.²³

Municipalities may also establish a local board of health and collect birth, death and health statistics, subject to the State Board of Health rules applicable to the county in which the municipality is located.²⁴

2. State Public Health Facilities.

(a) General.

Under the Constitution of 1890, the legislature must provide by law for treatment and care of the insane and the indigent sick in hospitals,²⁵ and must provide for the support of institutions for the deaf, dumb, and blind.²⁶

(b) State Department of Public Health.

The Mississippi State Medical Association and all other state, district and county medical associations make up the Mississippi Department of Public Health, of which any licensed medical practitioner in the state may become a member.²⁷ The Department collects vital statistics, develops medical literature and supervises the state's health interests. Committees within the Department inspect hospitals and similar institutions around the state, and investigate and make recommendations on matters concerning public health.²⁸ The Department reports to the governor annually on October 1st through the State Board of Health and may suggest needed legislation in the report.²⁹ The Department's executive committee is the Bureau on State Medicine, which encourages investigation of epidemic diseases and publishes and distributes medical literature.³⁰ The Department has taken over the crippled children's service from the State Department of Education.³¹

(c) State Board of Health.

The State Board of Health, consisting of eleven members appointed by the governor and one member elected by the board,³² is the Bureau of Public Health of the Department of Public Health.³³ The State Board supervises the health interests of the people, investigates and keeps records on causes of disease and means of prevention of diseases and other sources of mortality, oversees the sanitary condition of schools, prisons, public institutions, railroad and street cars, and all buildings and places of public resort, and makes appropriate recommendations. The board inspects food preparation and handling facilities, dairies and dairy herds and food canning plants, and it may issue orders to facilities found not in compliance.³⁴

The Board is the licensing and regulating agency for institutions for the aged or infirm.³⁵ The Board also keeps information on diseases and deaths, including a central registry of pathological information on cancer patients, their treatment and results.³⁶

The statistical and recording work of the Board is handled by the Bureau of Vital Statistics established by the Board.³⁷ The Bureau also appoints the county boards of health, which keep records of vital statistics in each county and sees that vaccine for public school children and indigents is furnished to the county boards at the State Board's expense. The Bureau reports annually to the State Board.³⁸

The State Board of Health appoints the county health officers,³⁹ various committees to study and remedy various health problems,⁴⁰ one member of the Board of Directors of the Pearl River Valley Water Supply District,⁴¹ and one member of the Board of Directors of the Pearl River Basin Development District.⁴² The State Board of Health also makes and publishes rules concerning public health matters,⁴³ including sanitary codes for public buildings and railroad cars,⁴⁴ health regulations for rock festivals and similar public gatherings,⁴⁵ standards for frozen food plants,⁴⁶ and sanitary rules for trailer camps and tourist camps.⁴⁷ Violation of the Board's regulations is a misdemeanor punishable by fine or imprisonment or both,⁴⁸ depending on the violation.⁴⁹ The Board may prevent, when necessary, the emptying of sewerage into navigable streams, or may, after notice and hearing, condemn such as nuisances, whereupon they must be emptied within 90 days. The Motor Vehicle Comptroller enforces the

order, and failure to comply is a misdemeanor punishable by fine.⁵¹ The Board may take over enforcement of health laws in counties where yellow fever, smallpox, or other virulent epidemic appears.⁵² The Board has the power in such situations to establish quarantine stations to prevent the spread of the disease.⁵³ The Board also has control over the disposition of human tissues removed by physicians,⁵⁴ dead fetuses⁵⁵ and unclaimed bodies (which may be delivered to a medical school for use under Board restrictions).⁵⁶ Barber shops and barber schools are subject to inspections during business hours by State Board of Health representatives.⁵⁷

ENVIRONMENTAL CONTROL

FOOTNOTES

1. Miss. Code Ann. § 7082 (1956); City of Jackson v. Ferguson, 167 Miss. 819, 150 So. 531 (1933).
2. Miss. Code Ann. § 7083 (1956).
3. Miss. Code Ann. § 7037 (1952).
4. State Board of Health Regulations: Vital Statistics.
5. Miss. Code Ann. § 7034 (1956).
6. Miss. Code Ann. § 7021 (1952).
7. Miss. Code Ann. § 7015-58 (Supp. 1972).
8. Miss. Code Ann. § 7015-60 (Supp. 1972).
9. Miss. Code Ann. § 7124-50(a)(Supp. 1972).
10. Miss. Code Ann. § 3374-112 (Supp. 1972).
11. Miss. Code Ann. § 3598-01 (Supp. 1972).
12. Miss. Code Ann. § 5977-08 (Supp. 1972).
13. Miss. Code Ann. § 7129-55.7 (Supp. 1971).
14. State Board of Health Regulation: Minimum Stds for Ins. for Aged and Infirm.
15. Miss. Const. art 14, § 262.
16. Miss. Code Ann. § 7129-56.5 (Supp. 1972).
17. Miss. Code Ann. § 7129-55.6 (Supp. 1972).
18. Miss. Code Ann. § 7129-57 (Supp. 1972).
19. Miss. Code Ann. § 7129-61 (Supp. 1972).
20. Miss. Code Ann. § 3374-116 (Supp. 1972).

21. Miss. Code Ann. § 3374-80 (1956).
22. City of Pascagoula, Miss., Ordinances, § 8-1.
23. Id. § 15-2.
24. Miss. Code Ann. § 7047 (1956).
25. Miss. Const. art. 4, § 86.
26. Miss. Const. art. 8, § 209.
27. Miss. Code Ann. § 7016 (1952).
28. Miss. Code Ann. § 7019 (1952).
29. Miss. Code Ann. § 7023 (1952).
30. Miss. Code Ann. § 7022 (1952).
31. Miss. Code Ann. § 7023.5 (Supp. 1972).
32. Miss. Code Ann. § 7024 (Adv. Sheet 1972).
33. Miss. Code Ann. § 7020 (1952).
34. Miss. Code Ann. § 7029 (Supp. 1972).
35. State Bd. of Health, Regulation: Stds. for Inst. for Aged or Infirm.
36. Miss. Code Ann. § 7029 (Supp. 1972).
37. Miss. Code Ann. § 7060 (Supp. 1972)
38. Miss. Code Ann. § 7021 (1952).
39. Miss. Code Ann. § 7033 (1956).
40. Miss. Code Ann. § 7046 (1956).
41. Miss. Code Ann. § 5956-54(b) (Supp. 1972).
42. Miss. Code Ann. § 5956-25(a) (Supp. 1972).
43. Miss. Code Ann. § 7031 (Supp. 1972).
44. Miss. Code Ann. § 7054 (1956).
45. Miss. Code Ann. § 7015-56 (Supp. 1972); State Bd of Health, Regulation:

Sanitation of Habitable Buildings.

46. Miss. Code Ann. § 7129-48 (1956).
47. Miss. Code Ann. § 8269(d) (Supp. 1972).
48. Miss. Code Ann. § 7053 (1956).
49. See Miss. Code Ann. §§ 7057, 5104-11, 8269(d), 7015-60.
50. Miss. Code Ann. § 2414 (1956).
51. Miss. Code Ann. § 5104-11 (1956).
52. Miss. Code Ann. § 7039 (1956).
53. Miss. Code Ann. § 7038 (1956).
54. Miss. Code Ann. § 7068-01 (Supp. 1972).
55. Miss. Code Ann. §§ 7068-01, -02 (Supp. 1972).
56. Miss. Code Ann. § 6709 (Supp. 1972).
57. State Bd. of Health, Regulation: Barbering, Barber Shops and Barber Schools.

C. Food Production and Sale.

1. Harvesting and Gathering.

(a) State Board of Health.

It is the duty of the State Board of Health to inspect regularly all facilities used for the growing or raising of food.¹ No shellfish may be taken from any waters within the state which have not been approved by the Board of Health, unless a hardship exception is allowed.²

(b) Commissioner of Agriculture.

The Commissioner of Agriculture encourages the development of agriculture, horticulture, and kindred industries; investigates diseases of crops grown in the state and recommends remedies; looks into dairying and stock and poultry raising to determine the best methods; and encourages such food protection techniques as fish raising and the culture of bees.³ The commissioner also appoints and fixes the salaries of inspectors to carry out these purposes. The inspectors have access to any location where commercial feed exists and may take samples to be sent to the state chemist for analysis. The inspectors may also take samples of commercial fertilizer, cotton seed meal, foods, seeds, paints, oils, varnishes, and other commodities coming under the inspection requirements of the Department of Agriculture and the state chemist. The commissioner publishes the results of these analyses yearly in booklet form.⁴

The commissioner may make regulations relating to the treating and handling of garbage fed to swine, and to the disposal of dead or diseased swine.⁵

(c) Board of Agricultural Aviation.

The Board of Agricultural Aviation is vested with authority to adopt rules and regulations necessary to regulate the application of chemicals and pesticides which create unusual hazards to the health, safety, and welfare of the public.

The Board procures samples of spray and dust to determine the concentration and composition of these mixtures.⁶

(d) Marine Conservation Commission.

All sea foods in coastal waters not privately owned, and all beds and bottoms of rivers, streams, bayous, lagoons, lakes, bays, sounds and inlets bordering on or connecting with the Gulf of Mexico or Mississippi Sound, including all oysters and other shellfish grown thereon, are the property of the State of Mississippi, held in trust for the people, and are under the exclusive control of the Mississippi Marine Conservation Commission.⁷

"Sea food" includes oysters, salt-water fish, salt-water shrimp, diamond back terrapin, sea turtles, crabs, and all other species of marine or salt-water animal life within the territorial jurisdiction of Mississippi.⁸ The Mississippi Marine Conservation Commission manages and controls matters pertaining to salt-water life. It is made up of ten members appointed by the Governor with advice and consent of the Senate - three members each from Hancock, Harrison and Jackson counties, plus a marine biologist, whose recommendations are those of the commission unless six members vote to overrule. The members serve staggered four year terms and must be experienced and active in the seafood industry.⁹ The Commission holds monthly meetings and may

act only by vote at a meeting.¹⁰ The Commission controls the taking, catching, and processing of shrimp, oysters, and crabs, but not of menhaden, trash fish, tuna, and red snapper (except for licenses and taxes). The Commission sets size, catching and taking, and culling regulations for all seafood except menhaden, trash fish, and tuna, and designates fishing seasons for shrimp, oysters, and crabs. Oyster season is September 1 - May 1, unless lengthened by the Commission. Minimum size for oysters is three inches hinge to mouth (unless reduced by Commission, but not less than 2-1/2 inches), and oysters must be culled on natural reefs. Minimum size for shrimp, unless reduced by the Commission, is one pound per 68 shrimp.¹¹

Inspectors appointed by the Commission may seize and dispose of any seafood taken contrary to law, and may confiscate the boat involved and draft the aid of boats and crews to assist in enforcing the law.¹² Riparian owners may plant and gather oysters up to 750 yards from shore, subject to reasonable regulations by the Commission, but may not harvest from natural reefs or beds.¹³ The Commission leases bottoms within its jurisdiction in blocks of 5-100 acres, for \$1.00 to \$5.00 per acre, for one year terms. The leases are renewable annually so long as the lessee cultivates and gathers oysters on his bottoms. The "Oyster Farms" are recorded on a chart kept by the Commission, and the leases are subject to the right of the state to develop ports, harbors, and other projects.¹⁴ Violations of the Marine Conservation Commission Act or of the Commission's regulations are punishable by increasing fines and jail (30 days for second offense) or suspension of license to operate a fishing boat (third offense).¹⁵ Upon request from the county board of supervisors the Commission

may ban the taking of menhaden within two miles of shore.¹⁶ Parties aggrieved by an order of the Commission may have a hearing before the Commission with right of appeal to the Circuit Court of Harrison County.¹⁷ Prosecutions under these statutes or the Commission's ordinances are brought either in justice of the peace courts or county courts.¹⁸ Money collected by the Commission from taxes, licenses, fines, and revenue from sales is paid into the Sea Food Fund, from which the Commission's expenses are paid.¹⁹

The Commission charges various taxes and licenses, including licenses for shrimp and oyster boats, nets and trawls; taxes on oysters, crabs and shrimp taken; and inspection fees.²⁰

Oysters may not be taken from any oyster reef by use of any mechanical device, including tongs, between sunset and sunrise.²¹ The taking of oysters by dredging is prohibited in certain areas, including the Bay of St. Louis north of the Louisville & N. R. R. bridge; the Bay of Biloxi; along the shore from Bay St. Louis to Waveland; from Pass Christian to Biloxi; from the mouth of Bayou Graveline to the Alabama line; and in certain other areas. The prohibited areas are marked by poles or buoys, and only hand tonging is allowed in these areas. Any boat found dredging oysters in a prohibited area may be confiscated and the captain and crew punished.²²

The inspector of the Commission cultivates new oyster reefs and removes oysters from too thick reefs to too thin reefs. New beds may not be established where the waters are not of safe sanitary quality for production of shellfish for human consumption as determined by the State Board of Health. Removal of oysters from existing reefs in areas of unacceptable sanitary quality is prohibited,

except that the Commission may allow removal of oysters from unacceptable areas to approved areas at least fifteen days before harvesting.²³

The Pascagoula Code prohibits commercial fishing or setting of trammel or gil nets within 1500 feet of any jetty, breakwater, pier, wharf, bulkhead, seawall or beach within the city.²⁴ Additionally, no fish, crabs, shrimp or refuse of any kind is to be thrown overboard into the Inner Harbor, and each watercraft owner must keep clean the docks adjacent to his berth.²⁵ The Code also prohibits taking and selling for human consumption any fish, crab, or shrimp from the Inner Harbor or within one quarter mile from any sewer outlet. Oysters may not be planted or taken from the Inner Harbor or within two miles of any sewer outlet,²⁶ nor may they be placed in any of the bayous, creeks or other streams within the city which flow into the Pascagoula River or Mississippi Sound.²⁷

(e) County Mosquito Control Commission.

The "Rice Field Mosquito Act" was passed in recognition of the facts that cultivation of rice breeds a mosquito known as the "rice field mosquito", and that these mosquitoes have become a nuisance to the health and welfare of residents in rice producing areas. The act provides a method for control and extermination of rice field mosquitoes. The "Rice Field Mosquito Act" and this entire section on mosquitoes do not apply to the coastal counties of Hancock, Harrison, and Jackson.²⁸ The County Mosquito Control Commission is made up of the county agricultural extension agent, the county health officer, and a rice producer appointed for three years by the county board of supervisors.²⁹ The Commission may sue and be sued, employ personnel, and do other necessary acts,³⁰ includ-

ing holding meetings once monthly.³¹ The Commission's first duty after its organizational meeting is to investigate the feasibility of controlling rice field mosquitoes and to submit a cost estimate for the program (based on a per acre cost times the total rice acreage) to the county board of supervisors. New estimates are submitted annually, and the board of supervisors may abolish the Commission whenever the board finds the program to be impractical.³² If the board finds the program feasible and practical, it will require all rice producers in the county to obtain annual permits. The fee for the permit is simply that part of the total estimated cost of the program for which the producer's rice acreage is responsible.³³ There is a specified procedure for applying for a permit.³⁴ Once the program is approved by the board, the Commission is able to employ personnel and purchase equipment for applying the poison (or "other mosquito control material"), or the commission may contract to have the work done. In either case the persons applying the poison are authorized to go upon lands planted in rice to do the work.³⁵ Anyone failing to comply with the program is penalized an extra 5% of the permit cost for filing late or for non-willfully understating his rice acreage, and 50% of the permit cost for wilfully understating his acreage. Both the penalties and the cost of the permit itself are liens against the rice grown by the person failing to comply.³⁶ Anyone willfully refusing to comply is guilty of a misdemeanor and, upon conviction, may be fined \$100-\$500, jailed for 15-90 days, or both.³⁷

2. Preparation of Food.

(a) State Board of Health.

The State Board of Health regularly inspects food handling and preparation facilities, dairies and dairy herds, canning plants, and all other facilities for

manufacturing or preparation of food.³⁸ The Board regulates the required ingredients in flour or bread, and collects samples for analysis from mills, shops, and vehicles containing flour or bread in order to ensure compliance.³⁹ The Board regulates and inspects frozen food locker plants,⁴⁰ oleomargine processing or refining plants,⁴¹ ice plants,⁴² soft drink bottling plants,⁴³ and all other food processing facilities.⁴⁴

The Board's regulations specify the minimum requirements for crabmeat or shrimp packaging plants in some detail, and make it unlawful to engage in these activities without a valid certificate of compliance from the Board. The packing plants must be well lighted, screened, made of impervious material (preferably concrete), and have "fly-tight" storage places for utensils, metal delivery chutes, and ample hot water and soap supplies. Utensils must not be of readily corrodable material; tables and chairs (if not metal) must be painted once a season; ice holding and washing racks must be on hand; and an adequate chlorine supply must be on hand. The interior of the plant must be free of rubbish; floors are to be cleaned daily; dead crabs and spoiled shrimp must be screened out and eliminated, cleaning of crabs and shrimp must be done in running water and packing done in a sanitary manner, including quick icing to prevent contamination; and utensils dropped on the floor must be properly washed before use. Employees in picking plants must wash their hands with soap before work and after any interruptions, wear reasonably clean clothes and caps for covering hair, and furnish health information and submit to physical exams.⁴⁵

In shellfish packing plants employees must wash their hands thoroughly

before starting work and after each visit to the toilet, must not spit on the floors or walls, must not smoke while packing or shucking oysters, and must possess an unrevoked certificate of health from the Board. Storage of oysters must be such as will prevent contamination and keep them alive and fresh, and storage may not be on the floor.⁴⁶

(b) Mississippi Marine Conservation Commission.

The Commission collects taxes and licenses on oyster canning, packing and shipping activities, fish canneries, fish by-product factories, shrimp packing and shipping, and wholesale seafood dealers.⁴⁷ It is unlawful for any vessel captain, or any canner, packer, commission man, dealer, or other person, to purchase, sell, or have in his possession any oysters from public reefs or private beds not culled on the reefs, or under the legal size (3 inches unless reduced to 2-1/2 inches by the marine biologist of the Commission). Processors must return 50% of the shells of the oysters taken, or pay a reasonable price set by the commission, or be fined.⁴⁸

(c) Commissioner of Agriculture.

A station where milk or cream is bought, collected, or separated for transportation to another plant must pay \$10 for a license from the Commissioner of Agriculture. The station must be used only for receiving and handling milk or cream, must have a concrete floor and running water, must have adequate drainage and sewerage facilities, and must have equipment for sterilizing any equipment coming into contact with the milk or cream.⁴⁹

(d) County and Municipal Authorities.

The board of supervisors of every county and the mayor and aldermen of every city, town or village may appoint a food inspector and direct what

kinds of food shall be inspected.⁵⁰ Governing bodies of municipalities may suppress hog pens, slaughter houses, and stock yards, or may regulate them.⁵¹ Municipal governing authorities may also issue negotiable bonds to finance construction, repair, or improvement of public slaughterhouses within corporate limits or within three miles of corporate limits.⁵² The county health officer, upon instructions from the board of supervisors, examines the sanitary condition of market places, butcher stalls, schools, and other public places, and reports his findings and recommendations to the board of supervisors and the State Board of Health.⁵³

3. Distribution and Sale.

(a) State Agencies.

The State Board of Health sets standards for food handling establishments and enforces these standards by inspections. Besides sanitation, such establishments must meet standards for lighting, ventilation, ceilings and floors, screening, etc.⁵⁴ Daily food allowances in institutions for aged or ~~infirm~~ must meet the standards of the Food and Nutrition Board of the National Research Council, adjusted for individual needs. Supplies of perishable foods should be properly stored and served to meet daily needs.⁵⁵ No food-handling establishment may be operated in a room connected with a room housing a coil-operated dry cleaning establishment.⁵⁶ Whenever an industrial establishment serves food on the premises, all facilities and practices must comply with the Board of Health's sanitary regulations for food handling establishments.⁵⁷

The State Health Officer may inspect and take samples for analysis from any wholesale or retail establishment dealing in oleomargine. Any violation of

the requirements of the Oleomargarine Enrichment Act is punishable by a \$500 fine or six months in jail for each offense.⁵⁸

The State Board of Health inspects and takes samples for analysis from mills, warehouses, shops, and vehicles containing flour or bread.⁵⁹ The board also establishes health and safety regulations for rock festivals to insure adequate supplies of wholesome food and sanitary food service.⁶⁰ It is unlawful for any dealer, commission man, or other person to purchase, sell, or have in his possession oysters taken from the reefs and beds under the Marine Conservation Commission's control and not culled on the reefs, or oysters of less than the legal size (3 inches unless lowered to 2-1/2 inches by the Commission's marine biologist).⁶¹ The Commissioner of Agriculture issues licenses for \$10.00 to stations where milk or cream is bought, collected, or separated for transportation to another plant. The station must be used only for receiving and handling milk and cream, must have a concrete floor with proper drainage and sewerage, and must have running water and proper sterilization equipment.⁶²

(b) County and Municipal Authorities.

The board of supervisors of every county and the mayor and aldermen of every city may appoint a food inspector and direct which foods shall be inspected.⁶³ The county health officer, upon instruction from the board of supervisors, inspects the sanitary condition of market houses, butcher stalls, schools, and other public areas and reports his findings and makes recommendations to the board of supervisors and the State Board of Health.⁶⁴ Counties and municipal governing authorities may exercise eminent domain to obtain land for public market houses.⁶⁵ Municipal governing authorities may also issue negotiable bonds to finance construction, repair or improvement of public markets within

the corporate limits or within three miles of the corporate limits.⁶⁶

The City of Pascagoula forbids outdoor markets for fruits, vegetables, fowl, fish, or meat,⁶⁷ except that a farmer may sell his own produce outside.⁶⁸ Privilege licenses are required for food handling establishments (which include grocery stores, restaurants, bakeries, soft drink stands, fish markets, ice cream wagons, and other places where food is stored, handled, or served),⁶⁹ and a license cannot be obtained without a health certificate and permit from the county health officer.⁷⁰ The county health officer will issue the certificate and permit only if he finds that the applicant does not carry or have a communicable disease and that the establishment meets city and State Board of Health regulations.⁷¹ All employees in food handling establishments must have valid health certificates (which are good for only six months and are revocable at any time by the county health officer), and the responsibility for seeing that all employees have valid certificates lies with the permit holder.⁷² The county health officer may order that operators of food handling establishments disperse by a duct or or fan obnoxious odors escaping therefrom, and may close a non-complying establishment after 30 days.⁷³ Tainted, putrid, or otherwise unwholesome seafood may not be sold for human consumption,⁷⁴ and such food must be destroyed if condemned by the meat inspector.⁷⁵ Fish markets must be equipped with sufficient cold storage facilities approved by the meat inspector.⁷⁶ Finally, all food handling establishments must remove garbage and refuse daily.⁷⁷

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FOOTNOTES

1. Miss. Code Ann. § 7029 (Supp. 1972).
2. State Bd of Health Reg. - Harvesting, Packaging and Shipping of Shellfish.
3. Miss. Code Ann. § 4421 (1956).
4. Miss. Code Ann. § 4442 (1956).
5. Miss. Code Ann. § 4575-211 (Supp. 1972).
6. Miss. Code Ann. § 5011-05 (Supp. 1972).
7. Miss. Code Ann. § 6047-03 (Supp. 1972).
8. Miss. Code Ann. § 6047-01 (Supp. 1972).
9. Miss. Code Ann. § 6047-04 (Supp. 1972).
10. Miss. Code Ann. § 6047-05 (Supp. 1972).
11. Miss. Code Ann. § 6047-06 (Supp. 1972).
12. Miss. Code Ann. § 6047-09 (Supp. 1972).
13. Miss. Code Ann. § 6047-10 (Supp. 1972).
14. Miss. Code Ann. § 6047-11 (Supp. 1972).
15. Miss. Code Ann. § 6047-13 (Supp. 1972).
16. Miss. Code Ann. § 6047-17 (Supp. 1972).
17. Miss. Code Ann. § 6047-15 (Supp. 1972).
18. Miss. Code Ann. § 6047-12 (Supp. 1972).
19. Miss. Code Ann. § 6047-07 (Supp. 1972).
20. Miss. Code Ann. § 6047-18 (Supp. 1972).
21. Miss. Code Ann. § 6077 (Supp. 1972).
22. Miss. Code Ann. § 6075-12 (Supp. 1972).

23. Pascagoula Code, § 6-3.
25. Pascagoula Code, § 6-34.
26. Pascagoula Code, § 13-47.
27. Pascagoula Code, § 13-48.
28. Miss. Code Ann. § 7106-01 (Supp. 1972).
29. Miss. Code Ann. § 7106-03 (Supp. 1972).
30. Miss. Code Ann. § 7106-04 (Supp. 1972).
31. Miss. Code Ann. § 7106-05 (Supp. 1972).
32. Miss. Code Ann. § 7106-07 (Supp. 1972).
33. Miss. Code Ann. § 7106-08 (Supp. 1972).
34. Miss. Code Ann. § 7106-09 (Supp. 1972).
35. Miss. Code Ann. § 7106-12 (Supp. 1972).
36. Miss. Code Ann. § 7106-13 (Supp. 1972).
37. Miss. Code Ann. § 7106-14 (Supp. 1972).
38. Miss. Code Ann. § 7129 (Supp. 1972).
39. Miss. Code Ann. § 7129-26 (1956).
40. Miss. Code Ann. §§ 7129-48. 6 to -48. 19 (1956).
41. Miss. Code Ann. § 7129-43 (1956).
42. State Board of Health, Reg. : Manufacture, Storage & Handling of Ice.
43. State Bd of Health, Reg. : Soft Drink Bottling Plants.
44. State Bd. of Health, Reg. : Food and Handling Establishments.
45. State Bd. of Health, Rules: Preparation, Packing, Sale, and Shipping of Crab Meat and Cooked Shrimp.
46. State Bd. of Health, Regulation - Harvesting, Packing, and Shipping of Shellfish.

47. Miss. Code Ann. § 6047-18 (Supp. 1972).
48. Miss. Code Ann. § 6047-06 (Supp. 1972).
49. Miss. Code Ann. § 4543 (1956).
50. Miss. Code Ann. § 7113 (1952).
51. Miss. Code Ann. §§ 3374-116, -133 (1956).
52. Miss. Code Ann. § 3598-01 (Supp. 1972).
53. Miss. Code Ann. § 7036 (1956).
54. State Bd. of Health, Regulation: Food and Food Handling Establishments.
55. State Bd. of Health, Regulation: Stds. for Inst. for Aged and Infirm.
56. State Bd. of Health, Regulation: Installation, Operation, Registration of Coin-Operated Dry Cleaning Machines.
57. State Bd. of Health, Regulation: Sanitation and Safety of Industrial Establishments.
58. Miss. Code Ann. §§ 7129-40 to -47 (1956).
59. Miss. Code Ann. § 7129-26 (1956).
60. Miss. Code Ann. § 7015-56 (Supp. 1972).
61. Miss. Code Ann. § 6047-06 (Supp. 1972).
62. Miss. Code Ann. § 4543 (1956).
63. Miss. Code Ann. § 7113 (1952).
64. Miss. Code Ann. § 7036 (1956).
65. Miss. Code Ann. § 3374-128 (Supp. 1972).
66. Miss. Code Ann. § 3598-01 (Supp. 1972).
67. Pascagoula Code, § 13-1.
68. Pascagoula Code, § 13-2.
69. Pascagoula Code, § 13-14.

