

## MEMORANDUM

**To: Charles H. Chisolm, Executive Director**

**From: Chuck D. Barlow, General Counsel**

**Date: January 29, 2001**

**Re: EPA's Delay in Approval of MDEQ Programs**

The following is a list of program approvals or delegated program reauthorizations that MDEQ has forwarded to EPA and that EPA has refused to approve, in whole or in part, because of Mississippi's current audit privilege/penalty mitigation statutes (Miss. Code Ann. §§ 49-2-71; 49-17-43(g)):

1. Lead-Based Abatement Training and Certification Program - EPA granted Mississippi's program a three-year temporary approval, instead of permanent approval. The temporary approval ends on June 28, 2002. The only reason stated for this action is the audit law.
2. Clean Air Act New Source Performance Standards (NSPS) Regulations - MDEQ adopts new federal NSPS regulations by reference once they are finalized by EPA. The new regulations become a part of Mississippi's approved State Implementation Plan under the Clean Air Act. EPA has refused to approve recently submitted sets of these regulations, even though the Mississippi regulations would parallel federal regulations. The stated reason is the existence of Mississippi's audit law.
3. Hazardous Waste Regulations - Mississippi adopts its hazardous waste regulations almost entirely by adopting federal regulations as they are promulgated and modified. Under the Resource Conservation and Recovery Act ("RCRA"), MDEQ adopts the regulations once a year in what EPA calls "clusters." EPA has refused to approve Mississippi's approval of RCRA Clusters IV, V, and VI (which include regulations adopted on the federal level in 1993 through 1996) due to the audit law.

Please let me know if I can be of further assistance to you in this matter.