

By: Senator(s) Dearing

To: Environment Prot,
Cons and Water Res;
Oil, Gas and Other
Minerals

SENATE BILL NO. 2382
(As Passed the Senate)

1 AN ACT TO REVISE THE "MISSISSIPPI SURFACE MINING AND
2 RECLAMATION LAW"; TO AMEND SECTION 53-7-5, MISSISSIPPI CODE OF
3 1972, TO DEFINE CERTAIN TERMS; TO AMEND SECTION 53-7-7,
4 MISSISSIPPI CODE OF 1972, TO REQUIRE A PERMIT BEFORE BEGINNING A
5 SURFACE MINING OPERATION AND TO CLARIFY EXEMPTIONS FROM THIS ACT;
6 TO AMEND SECTION 53-7-21, MISSISSIPPI CODE OF 1972, TO TRANSFER
7 PERMIT DUTIES TO THE PERMIT BOARD; TO AMEND SECTION 53-7-23,
8 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE ISSUANCE OF A GENERAL
9 PERMIT AND TO ELIMINATE TEMPORARY PERMITS; TO REVISE SURFACE
10 MINING ADMINISTRATIVE PROCEDURES CONSISTENT WITH THE DEPARTMENT OF
11 ENVIRONMENTAL QUALITY ADMINISTRATIVE PROCEDURES; TO REQUIRE
12 COMPLIANCE WITH THE MISSISSIPPI ADMINISTRATIVE PROCEDURES LAW; TO
13 CONFORM THE SURFACE MINING LAW TO REORGANIZATION NOMENCLATURE; TO
14 PROHIBIT MINING IN LOCATIONS UNDER CERTAIN CIRCUMSTANCES; TO
15 REVISE PENALTIES FOR VIOLATIONS; TO AMEND SECTIONS 53-7-1, 53-7-3,
16 53-7-9, 53-7-11, 53-7-17, 53-7-19, 53-7-25, 53-7-27, 53-7-29,
17 53-7-31, 53-7-35 THROUGH 53-7-71 AND 53-7-75, MISSISSIPPI CODE OF
18 1972, IN CONFORMITY THERETO; TO REPEAL SECTION 53-7-13,
19 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE BOARD OF THE
20 GEOLOGICAL, ECONOMIC AND TOPOGRAPHICAL SURVEY TO ESTABLISH
21 REGULATIONS ON SURFACE MINING; TO REPEAL SECTION 53-7-15,
22 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE BOARD OF THE
23 GEOLOGICAL, ECONOMIC AND TOPOGRAPHICAL SURVEY TO HOLD CERTAIN
24 HEARINGS; TO REPEAL SECTION 53-7-33, MISSISSIPPI CODE OF 1972,
25 WHICH REQUIRES SOIL AND WATER CONSERVATION COMMISSIONERS TO SUBMIT
26 WRITTEN RECOMMENDATIONS ON RECLAMATION PLANS AFFECTING THEIR
27 DISTRICTS; TO REPEAL SECTION 53-7-73, MISSISSIPPI CODE OF 1972,
28 WHICH PROVIDES A TEMPORARY SUSPENSION FOR AN OPERATOR TO SUSPEND
29 MINING OPERATIONS FOR TWO YEARS AND TO RESUME OPERATIONS AFTER
30 GIVING NOTICE; AND FOR RELATED PURPOSES.

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

32 SECTION 1. Section 53-7-1, Mississippi Code of 1972, is
33 amended as follows:

34 53-7-1. This chapter shall be known and may be cited as the
35 "Mississippi Surface Mining and Reclamation Act."

36 SECTION 2. Section 53-7-3, Mississippi Code of 1972, is
37 amended as follows:

38 53-7-3. (1) The Legislature of the State of Mississippi
39 finds and declares that:

40 (a) Mississippi is endowed with abundant varied natural

41 resources which serve as a source of recreation and economic
42 benefit to our people;

43 (b) The extraction of materials by surface mining is a
44 significant economic activity and is an integral part of the
45 growth and development of this state;

46 (c) The process of surface mining necessarily involves
47 the alteration * * * of the face of the land;

48 (d) The process of surface mining must be accomplished
49 in a manner to reduce the undesirable effects of surface mining to
50 a bare minimum, and to protect and preserve our land which is one
51 of our greatest natural resources; and

52 (e) The land whose face has been altered by surface
53 mining requires reclamation to prevent permanent damage to surface
54 water and the land so that it may be used by future generations,
55 to protect the safety and welfare of Mississippians, and to
56 preserve available natural resources.

57 (2) The Legislature, recognizing its duty and obligation to
58 foster the economic well-being of the state and nation, to
59 encourage the development of its natural resources and to preserve
60 the beauty of its lands, declares that the purpose of this chapter
61 is to:

62 (a) Provide for the regulation and control of surface
63 mining so as to minimize its injurious effects by requiring proper
64 reclamation of surface-mined lands;

65 (b) Establish a regulatory system of permits and
66 reclamation standards, supplemented by the knowledge, expertise
67 and concerns of mining operators, landowners and the general
68 public which is designed to achieve an acceptable, workable
69 balance between the economic necessities of developing our natural
70 resources and the public interest in protecting our birthright of
71 natural beauty and a pristine environment; and

72 (c) Establish a regulatory system of uniform standards
73 and procedures to govern the mining and reclamation of land,

74 accepting the proposition that varied types of mining, varied
75 types of materials being mined and varied geographical and
76 ecological areas of this state may require variations in methods
77 of surface mining and reclamation, but any variation shall be
78 designed to restore the affected area to a useful, productive and
79 beneficial purpose.

80 SECTION 3. Section 53-7-5, Mississippi Code of 1972, is
81 amended as follows:

82 53-7-5. For the purposes of this chapter, the following
83 terms shall have the meanings * * * ascribed in this section,
84 except where the context * * * otherwise requires:

85 (a) "Affected area" means any area * * * from which any
86 materials are removed or are to be removed in a surface mining
87 operation and upon which any materials are to be deposited. The
88 affected area includes all areas affected by the construction of
89 new roads, or the improvement or use of existing roads other than
90 public roads to gain access and to haul materials.

91 (b) "Appeal" means an appeal to an appropriate court of
92 the state taken from a final decision of the Permit Board or
93 commission made after a formal hearing before that body.

94 (c) "As recorded in the minutes of the Permit Board"
95 means the date of the Permit Board meeting at which the action
96 concerned is taken by the Permit Board.

97 (d) "Commission" means the Mississippi Commission on
98 Environmental Quality.

99 (e) "Department" means the Mississippi Department of
100 Environmental Quality, acting through the Office of Geology and
101 Energy Resources or a successor office.

102 (f) "Executive director" means the Executive Director
103 of the Mississippi Department of Environmental Quality.

104 (g) "Exploration activity" means the disturbance of the
105 surface or subsurface for the purpose of determining the location,
106 quantity or quality of a deposit of any material, except the

107 drilling of test holes or core holes of twelve (12) inches or less
108 in diameter.

109 (h) "Formal hearing" means a hearing on the record, as
110 recorded and transcribed by a court reporter, before the
111 commission or Permit Board where all parties to the hearing are
112 allowed to present witnesses, cross-examine witnesses and present
113 evidence for inclusion into the record, as appropriate under rules
114 promulgated by the commission or Permit Board.

115 (i) "Fund" means the Surface Mining and Reclamation
116 Fund created by Section 53-7-69.

117 (j) "General permit" means general permit as defined in
118 Section 49-17-5.

119 (k) "Highwall" means a wall created by * * * mining
120 having a slope steeper than two (2) to one (1).

121 (l) "Interested party" means interested party as
122 provided under Section 49-17-29.

123 (m) "Material" means bentonite, metallic ore, mineral
124 clay, dolomite, * * * phosphate, * * * sand, gravel, soil, clay,
125 sand clay, clay gravel, stone, * * * chalk, * * * and any other
126 materials * * * designated by the commission * * *.

127 (n) "Nearest approximate original contour" means that
128 surface configuration achieved by backfilling and grading of the
129 surface-mined area so that it substantially resembles the surface
130 configuration of the land before mining and blends into and
131 complements the drainage pattern of the surrounding terrain, with
132 all highwalls, spoil piles and water-collecting depressions
133 eliminated, to the extent practicable, unless contained in an
134 approved reclamation plan.

135 (o) "Operator" means the person * * * that is to engage
136 or that is engaged in a surface mining operation, whether on a
137 permanent, continuous basis, or for a limited period of time and
138 for a specific or ancillary purpose, including any person whose
139 permit or coverage under a general permit has expired or been

140 suspended or revoked.

141 (p) "Overburden" means all * * * materials which are
142 removed to gain access to other materials in the process of
143 surface mining, including the material before or after its removal
144 by surface mining.

145 (q) "Permit" means a permit to conduct surface mining
146 and reclamation operations under this chapter.

147 (r) "Permit area" means all the area designated * * *
148 in the permit application or application for coverage under a
149 general permit and shall include all land affected by the surface
150 mining operations during the term of the permit and may include
151 any contiguous area which the operator proposes to surface mine
152 thereafter.

153 (s) "Permit Board" means the Permit Board created by
154 Section 49-17-28.

155 (t) "Person" means any individual, trust, firm,
156 joint-stock company, public or private corporation, joint venture,
157 partnership, association, cooperative, state, or any agency or
158 institution thereof, municipality, commission, political
159 subdivision of a state or any interstate body, and includes any
160 officer or governing or managing body of any municipality,
161 political subdivision, or the United States or any officer or
162 employee of the United States.

163 (u) "Public hearing" means a public forum organized by
164 the commission, department or Permit Board for the purpose of
165 providing information to the public regarding a surface mining and
166 reclamation operation and at which members of the public are
167 allowed to make comments or ask questions or both of the
168 commission, department or the Permit Board regarding a proposed
169 operation or permit.

170 (v) "Reclamation" means work necessary to restore an
171 area of land affected by surface mining to a useful, productive
172 and beneficial purpose, the entire process being designed to

173 restore the land to a useful, productive and beneficial purpose,
174 suitable and amenable to surrounding land and consistent with
175 local environmental conditions in accordance with the standards
176 set forth in * * * this chapter.

177 (w) "State" means the State of Mississippi.

178 (x) "Spoil pile" means the overburden and other mined
179 waste material as it is piled or deposited in the process of
180 surface mining.

181 (y) "Surface mining" or "mining" means the extraction
182 of materials from the ground or water or from waste or stock piles
183 or from pits or banks or natural occurrences by methods including,
184 but not limited to, strip drift, open pit, contour or auger
185 mining, dredging, placering, quarrying and leaching, and
186 activities related thereto, which will * * * alter the
187 surface * * *.

188 (z) "Surface mining operation" or "operation" means the
189 activities conducted at a mining site, including extraction,
190 storage, processing and shipping of materials and reclamation of
191 the affected area. This term does not include the following: the
192 dredging and removal of oyster shells from navigable bodies of
193 water; the dredging and removal of any materials from the bed of
194 navigable streams, when the activity is regulated and permitted
195 under an individual permit by the United States Corps of
196 Engineers; the extraction of hydrocarbons in a liquid or gaseous
197 state by means of wells, pipe, or other on-site methods * * *; the
198 off-site transportation of materials; exploration activities;
199 construction activities at a construction site; or any other
200 exception adopted by the commission in its regulations.

201 (aa) "Topsoil" means the organic or inorganic matter
202 naturally present on the surface of the earth which has been
203 subjected to and influenced by genetic and environmental factors
204 of parent material, climate, macroorganisms and microorganisms,
205 and topography, all acting over a period of time, and that is

206 necessary for the growth and regeneration of vegetation on the
207 surface of the earth. * * *

208 (bb) "Toxic material" means any substance present in
209 sufficient concentration or amount to cause significant injury or
210 illness to plant, animal, aquatic or human life.

211 SECTION 4. Section 53-7-7, Mississippi Code of 1972, is
212 amended as follows:

213 53-7-7. (1) Except as provided in this section, it is
214 unlawful to commence an operation or operate a surface mine
215 without a permit or coverage under a general permit as provided by
216 this chapter.

217 (2) Except as expressly provided in this section, this
218 chapter shall not apply to:

219 (a) Excavations made by the owner of land for the
220 owner's own use and not for commercial purposes, where the
221 materials removed do not exceed one thousand (1,000) cubic yards
222 per year and where one (1) acre or less of land is affected;

223 (b) Excavations made by a public agency on a one-time
224 basis for emergency use at an emergency site if:

225 (i) The excavation lies in the vicinity of the
226 emergency site and affects less than one-fourth (1/4) acre of
227 mined surface area;

228 (ii) The landowner has signed a statement giving
229 approval for the removal of the materials and acknowledging that
230 no reclamation will be required; and

231 (iii) The public agency has notified the
232 department as required by the commission before the removal of any
233 materials.

234 (c) Operations for any materials on any affected area
235 conducted before April 15, 1978, but this chapter shall apply to
236 any additional land which the operation extended to or encompassed
237 after April 15, 1978;

238 (d) Operations for any materials that affected four (4)

239 acres or less and were greater than one thousand three hundred
240 twenty (1,320) feet from any other affected area if:

241 (i) The operation began before July 1, 1999; and

242 (ii) The operator notified the commission of the
243 commencement, expansion or resumption of the operation before July
244 1, 1999; and

245 (e) Operations for any materials that affect four (4)
246 acres or less, are greater than one thousand three hundred twenty
247 (1,320) feet from any other affected area and commenced after July
248 1, 1999, if the operator notifies the department at least seven
249 (7) calendar days before commencement or expansion of the
250 operation as required in regulations adopted by the commission,
251 except as provided in this paragraph.

252 If the operator agrees in the notification to reclaim the
253 mine site in accordance with minimum standards adopted by the
254 commission or if the exempted operation is conducted for
255 Mississippi Department of Transportation projects or state aid
256 road construction projects funded in whole or in part by public
257 funds the operator may begin after notification of the department.

258 Exempt operations conducted under those projects shall be
259 reclaimed in accordance with the requirements of the Mississippi
260 Standard Specifications for Road and Bridge Construction,
261 Mississippi Department of Transportation or Division of State Aid
262 Road Construction, as applicable. If a landowner refuses to allow
263 the operator to complete reclamation in accordance with minimum
264 standards or interferes with or authorizes a third party to
265 disturb or interfere with reclamation in accordance with minimum
266 standards, the landowner shall assume the exempt notice and shall
267 be responsible for any reclamation.

268 (3) All operations exempted under Sections 53-7-7(2)(d) and
269 53-7-7(2)(e) shall be subject to the prohibitions on mining in
270 certain areas contained in Sections 53-7-49 and 53-7-51 and may be
271 subject to the penalties in Section 53-7-59(2) for any violation

272 of those sections.

273 (4) Any operator conducting operations exempted under
274 Section 53-7-7(2)(b) or 53-7-7(2)(e) failing to notify the
275 department in accordance with the regulations of the commission,
276 may be subject to penalties provided in Section 53-7-59(2). Any
277 operator exempted under Section 53-7-7(2)(e) who agrees in the
278 notification to reclaim and fails to reclaim in accordance with
279 that paragraph may be subject to penalties provided in Section
280 53-7-59(2).

281 SECTION 5. Section 53-7-9, Mississippi Code of 1972, is
282 amended as follows:

283 53-7-9. The department is designated as the agency to
284 administer this chapter. The commission is designated as the body
285 to enforce this chapter, including, but not limited to, the
286 issuance of administrative and penalty orders, promulgation of
287 regulations regarding matters addressed in this chapter, and
288 designation of lands unsuitable for surface mining. The Permit
289 Board is designated as the body to issue, deny, modify, revoke,
290 transfer, cancel, rescind, suspend and reissue permits under this
291 chapter.

292 SECTION 6. Section 53-7-11, Mississippi Code of 1972, is
293 amended as follows:

294 53-7-11. (1) * * * The commission may adopt, modify,
295 repeal, after due notice and hearing, and where not otherwise
296 prohibited by federal or state law, may make exceptions to and
297 grant exemptions and variances from, and may enforce rules and
298 regulations pertaining to surface mining and reclamation
299 operations to implement * * * this chapter.

300 (2) * * * In adopting * * * rules and regulations, the
301 commission shall comply with the Mississippi Administrative
302 Procedures Law and, in addition, may hold a public hearing.
303 Notice of the date, time, place and purpose of the public hearing
304 shall be given thirty (30) days before the scheduled date of the

305 hearing as follows:

306 (a) By mail to:

307 (i) All operators known by the commission to be
308 actively engaged in surface mining in the state;

309 * * *

310 (ii) * * * The Mississippi Soil and Water
311 Conservation Commission, the Office of Pollution Control and
312 Office of Land and Water Resources within the department, * * *
313 the Mississippi Forestry Commission, * * * the Mississippi
314 Department of Archives and History, the Mississippi Department of
315 Transportation, the Mississippi Department of Wildlife, Fisheries
316 and Parks, the Mississippi Department of Agriculture and
317 Commerce * * *; and

318 (iii) * * * Persons who request notification of
319 proposed actions regarding rules and regulations and any other
320 person the commission deems appropriate.

321 (b) * * * By publication once weekly for three (3)
322 consecutive weeks in a newspaper having general circulation in the
323 State of Mississippi.

324 (3) Any person may * * * submit written comments or to
325 appear and offer oral comments at the public hearing. The
326 commission shall consider all comments and relevant data presented
327 at the public hearing before final adoption of * * * rules and
328 regulations under this chapter. The failure of any person to
329 submit comments within a time period as established by the
330 commission shall not preclude action by the commission.

331 SECTION 7. Section 53-7-17, Mississippi Code of 1972, is
332 amended as follows:

333 53-7-17. Upon the passage of any federal surface mining
334 legislation, the commission shall take steps necessary to
335 establish the exclusive jurisdiction of the commission over the
336 regulation of surface mining and reclamation operations in this
337 state.

338 SECTION 8. Section 53-7-19, Mississippi Code of 1972, is
339 amended as follows:

340 53-7-19. The commission * * * shall have the following
341 powers and duties regarding surface mining:

342 (a) To develop a statewide, comprehensive policy * * *
343 for the regulation of surface mining and reclamation consistent
344 with * * * this chapter;

345 (b) To hold public and formal hearings, to issue
346 notices of hearing, to administer oaths or affirmations, to issue
347 subpoenas requiring the appearance of witnesses requested by any
348 party and compel their attendance, * * * and to require production
349 of any books, papers, correspondence, memoranda, agreements or
350 other documents or records that are relevant or material to the
351 administration of this chapter and to take testimony as deemed
352 necessary;

353 * * *

354 (c) To issue, modify or revoke orders requiring an
355 operator to take any actions * * * necessary to comply with this
356 chapter, rules and regulations adopted under this chapter or any
357 permit or coverage under a general permit required by this
358 chapter;

359 * * *

360 (d) To enter on and inspect for the purpose of assuring
361 compliance with the terms of this chapter, in person or by an
362 authorized agent of the department, any surface mining
363 operation * * * subject to * * * this chapter;

364 (e) To conduct, or cause to be conducted, encourage,
365 request and participate in studies, surveys, investigations,
366 research, experiments, training and demonstrations by contract,
367 grant or otherwise; to prepare and require permittees to prepare
368 reports; and to collect information and disseminate to the
369 public * * * information such as is deemed reasonable and
370 necessary for the proper enforcement of this chapter;

371 (f) To apply for, receive and expend any grants, gifts,
372 loans or other funds made available from any source for the
373 purpose of this chapter * * *;

374 (g) To advise, consult, cooperate with, or enter into
375 contracts or grants with federal, state and local boards and
376 agencies having pertinent expertise for the purpose of obtaining
377 professional and technical services necessary to carry out * * *
378 this chapter;

379 (h) To enter into contracts with persons to reclaim
380 land under this chapter;

381 * * *

382 (i) To order the immediate cessation of any ongoing
383 surface mining operation being conducted with or without a permit
384 or coverage under a general permit if it finds that the operation
385 endangers the health or safety of the public or creates imminent
386 and significant environmental harm;

387 * * *

388 (j) To institute and maintain all * * * court
389 actions * * * necessary to obtain the enforcement of any written
390 order of the commission;

391 (k) To recognize the differences in the various
392 materials * * *, taking into consideration the commercial value of
393 the material and the nature and size of operation necessary to
394 extract the deposit, in regulating surface mining operations;

395 (l) To authorize the executive director * * * to
396 discharge or exercise any power or duty granted to the commission
397 by * * * this chapter; and

398 (m) To perform any other duties and acts * * * required
399 or provided for by this chapter.

400 * * *

401 SECTION 9. Section 53-7-21, Mississippi Code of 1972, is
402 amended as follows:

403 53-7-21. (1) Unless exempted under Section 53-7-7, no

404 operator shall engage in surface mining without having first
405 obtained coverage under a general permit or having obtained from
406 the Permit Board a permit for each operation. The * * * permit or
407 coverage under a general permit shall authorize the operator to
408 engage in surface mining upon the area of land described in the
409 application for a period of either five (5) years or longer period
410 of time as deemed appropriate by the Permit Board from the date
411 of * * * issuance or until reclamation of the affected area is
412 completed and the reclamation bond is finally released, whichever
413 comes first.

414 (2) * * * Each operator holding a permit shall annually,
415 before the anniversary date of the permit, file with the
416 department a certificate of compliance in which the operator,
417 under oath, shall declare that the operator is following the
418 approved mining and reclamation plan and is abiding by * * * this
419 chapter and the rules and regulations adopted under this chapter.

420 SECTION 10. Section 53-7-23, Mississippi Code of 1972, is
421 amended as follows:

422 53-7-23. (1) The Permit Board may issue general permits
423 consistent with regulations adopted by the commission to cover
424 those surface mining operations deemed appropriate by the Permit
425 Board. Conditions in any general permit shall provide that no
426 operation shall be conducted on lands designated as unsuitable for
427 mining and that each operator shall submit a proposed initial
428 reclamation plan and a performance bond in an amount sufficient to
429 properly reclaim the permit area. The Permit Board may include
430 other conditions as required by the rules and regulations of the
431 commission.

432 (2) Before commencing any operation for which coverage under
433 a general permit may be obtained, each applicant for coverage
434 under a general permit shall submit to the department an
435 application in the form and containing the information as the
436 department shall specify, including a copy of the proposed initial

437 reclamation plan and except as otherwise provided by this section,
438 a performance bond in an amount proposed by the applicant to be
439 sufficient to properly reclaim the permit area. As the operation
440 progresses, the applicant may revise the reclamation plan and
441 submit the revised plan to the department for approval. The
442 amount of the proposed performance bond shall not be less than the
443 minimum provided in Section 53-7-37.

444 (3) The Permit Board shall issue a general permit for
445 surface mining operations having a permitted area of more than
446 four (4) acres but less than ten (10) acres which are conducted
447 for projects funded in whole or in part by public funds for the
448 Mississippi Department of Transportation or the Division of State
449 Aid Road Construction. The general permit issued under this
450 subsection shall require that all materials obtained from an
451 operation covered under this general permit shall be used
452 exclusively on the Mississippi Department of Transportation or
453 Division of State Aid Road Construction project and that no
454 materials from an operation covered under this permit may be
455 provided or sold for any other purpose. The Permit Board shall
456 consult with the Mississippi Department of Transportation on the
457 development of this general permit. An applicant for a coverage
458 under a general permit issued under this subsection shall submit
459 an application for coverage and a proposed initial reclamation
460 plan as required by this section, but the applicant shall not be
461 required to post a performance bond under this section, if the
462 applicant submits a copy of the bond posted with the Mississippi
463 Department of Transportation or the Division of State Aid Road
464 Construction. The Mississippi Department of Transportation or the
465 Division of State Aid Road Construction shall not release the bond
466 until all reclamation requirements of the general permit issued
467 under this section have been met. No operation conducted under a
468 general permit issued under this subsection shall be conducted in
469 lands designated as unsuitable for mining under Sections 53-7-49

470 or 53-7-51. The Permit Board may include other conditions as
471 required by the rules and regulations of the commission in the
472 general permit issued under this section.

473 (4) Within three (3) working days after receiving the
474 application for coverage under a general permit, the department
475 shall review the application, determine if the proposed surface
476 mining operation is eligible for coverage under a general permit,
477 and notify the applicant in writing accordingly. Operations may
478 commence at the mining site after the operator receives notice of
479 coverage.

480 SECTION 11. Section 53-7-25, Mississippi Code of 1972, is
481 amended as follows:

482 53-7-25. (1) Each application for a surface mining permit
483 and for coverage under a general permit shall be accompanied by
484 an * * * application fee in accordance with a published fee
485 schedule adopted by the commission. The application fee shall not
486 be less than One Hundred Dollars (\$100.00) plus Ten Dollars
487 (\$10.00) per acre included in the application. The total
488 application fee shall not * * * exceed Five Hundred Dollars
489 (\$500.00). The commission, in considering regulations on the fee
490 schedule, shall recognize the difference in the various
491 materials * * *, taking into consideration the commercial value of
492 the material and the nature and size of operation necessary to
493 extract it.

494 (2) All state agencies, political subdivisions of the state,
495 and local governing bodies shall be exempt from all fees required
496 by this chapter.

497 (3) Upon submission of the certificate of compliance
498 required under Section 53-7-21, each operator shall pay a fee of
499 Fifty Dollars (\$50.00).

500 SECTION 12. Section 53-7-27, Mississippi Code of 1972, is
501 amended as follows:

502 53-7-27. (1) Before commencing any operation for which a

503 permit is required, each applicant for a permit shall submit to
504 the Permit Board an application, a proposed initial reclamation
505 plan and a performance bond in an amount proposed to be sufficient
506 by the applicant to reclaim the permit area.

507 (2) * * * The application shall be in the form prescribed by
508 the commission and shall contain the following information * * *:

509 (a) A legal description of the tract or tracts of land
510 in the affected area and * * * one or more maps or plats of
511 adequate scale to clearly portray the location of the affected
512 area * * *. The description shall contain sufficient information
513 so that the affected area may be located and distinguished from
514 other lands and shall identify the access from the nearest public
515 road;

516 (b) The approximate location and depth of the deposit
517 in the permit area and the total number of acres in the permit
518 area;

519 (c) The name, address and management officers of the
520 permit applicant and any affiliated persons who shall be engaged
521 in the operations;

522 (d) The name and address of any person holding legal
523 and equitable interests of record, if reasonably ascertainable, in
524 the surface estate of the permit area and in the surface estate of
525 land located within five hundred (500) feet of the exterior limits
526 of the permit area;

527 (e) The name and address of any person residing on the
528 property of the permit area at the time of application;

529 (f) Current or previous surface mining permits held by
530 the applicant, including any revocations, suspensions or bond
531 forfeitures;

532 (g) The type and method of operation, the engineering
533 techniques and the equipment that is proposed to be used,
534 including mining schedules, the nature and expected amount of
535 overburden to be removed, the depth of excavations, a description

536 of the * * * permit area, the anticipated hydrologic consequences
537 of the mining operation, and the proposed use of explosives for
538 blasting, including the nature of the explosive, the proposed
539 location of the blasting and the expected effect of the blasting;

540 (h) A notarized statement showing the applicant's legal
541 right to surface mine the affected area;

542 (i) The names and locations of all lakes, rivers,
543 reservoirs, streams, creeks and other bodies of water in the
544 vicinity of the contemplated operations which may be affected by
545 the operations and the types of existing vegetative cover on the
546 area affected thereby and on adjoining lands within five hundred
547 (500) feet of the exterior limits of the affected area;

548 (j) A topographical survey map showing the surface
549 drainage plan on and away from the permit area;

550 (k) The surface location and extent of all existing and
551 proposed waste and spoil piles, cuts, pits, tailing dumps, ponds,
552 borrow pits, evaporation and settling basins, roads, buildings,
553 access ways, workings and installations sufficient to provide a
554 reasonably clear and accurate portrayal of the existing surface
555 conditions and the proposed mining operations;

556 (l) If the surface and mineral estates, or any part of
557 those estates, in land covered by the application, have been
558 severed and are owned by separate owners, the applicant shall
559 provide a notarized statement subscribed to by each surface owner
560 and lessee of those lands, unless the lease or other conveyance to
561 the applicant specifically states the material to be mined by the
562 operator granting consent for the applicant to initiate and
563 conduct surface mining, exploration and reclamation activities on
564 the land;

565 (m) Except for governmental agencies, a certificate of
566 insurance certifying that the applicant has in force a public
567 liability insurance policy issued by an insurance company
568 authorized to conduct business in the State of Mississippi

569 covering all operations of the applicant in this state and
570 affording bodily injury protection and property damage protection
571 in an amount not less than the following:

572 (i) One Hundred Thousand Dollars (\$100,000.00) for
573 all damages because of bodily injury sustained by one (1) person
574 as the result of any one (1) occurrence, and Three Hundred
575 Thousand Dollars (\$300,000.00) for all damages because of bodily
576 injury sustained by two (2) or more persons as the result of any
577 one (1) occurrence; and

578 (ii) One Hundred Thousand Dollars (\$100,000.00)
579 for all claims arising out of damage to property as the result of
580 any one (1) occurrence including completed operations;

581 The policy shall be maintained in full force and effect
582 during the term of the permit * * *, including the length of all
583 reclamation operations.

584 (n) A copy of a proposed initial reclamation plan
585 prepared under Section 53-7-31; and

586 (o) Any other information needed to clarify the
587 required parts of the application.

588 SECTION 13. Section 53-7-29, Mississippi Code of 1972, is
589 amended as follows:

590 53-7-29. (1) The department shall file a copy of each
591 permit application * * * for public inspection with the chancery
592 clerk * * * of the county where any * * * portion of the operation
593 is proposed to occur. The department shall delete any
594 confidential information in accordance with Section 53-7-75.

595 (2) The department shall * * * submit copies, excluding all
596 confidential information, of the permit application as soon as
597 possible to: (a) the Mississippi Soil and Water Conservation
598 Commission, * * * the Office of Pollution Control and the Office
599 of Land and Water Resources within the department, the Mississippi
600 Forestry Commission, * * * the Mississippi Department of Archives
601 and History, the Mississippi Department of Transportation, the

602 Mississippi Department of Wildlife, Fisheries and Parks, the
603 Mississippi State Oil and Gas Board and the Mississippi Department
604 of Agriculture and Commerce; * * * (b) any other state agency
605 whose jurisdiction the department feels the particular mining
606 operation may affect; * * * (c) any person who makes written
607 request for a copy of the application; and (d) the owner of the
608 land. The department shall require payment of a reasonable fee
609 established by the commission for reimbursement of the costs of
610 reproducing and providing the copy.

611 (3) Each * * * agency shall review the permit application
612 and * * * submit, within ten (10) days of receipt of the
613 application by that agency, any comments, recommendations and
614 evaluations as the agency deems necessary and proper based only
615 upon the effect of the proposed operation on matters within the
616 agency's jurisdiction. Any comments shall include a listing of
617 permits or licenses required under the agency's
618 jurisdiction. * * * Comments and recommendations shall be made a
619 part of the record and one (1) copy shall be furnished to the
620 applicant. All comments and recommendations shall be considered
621 by, but shall not be binding upon, the Permit Board. The failure
622 of any agency to submit comments shall not preclude action by the
623 Permit Board.

624 SECTION 14. Section 53-7-31, Mississippi Code of 1972, is
625 amended as follows:

626 53-7-31. (1) A reclamation plan shall be developed in a
627 manner consistent with local, physical, environmental and
628 climatological conditions and current mining and reclamation
629 technology. A proposed initial reclamation plan submitted as part
630 of a permit application shall include the following information:

631 (a) The identification of the proposed affected
632 area * * *, accompanied by a detailed topographic map on a scale
633 required by regulation showing:

634 (i) The proposed affected area, the location of

635 any stream or * * * standing body of water into which the area
636 drains, the location of drainways and any planned siltation traps
637 and other impoundments, and the location of * * * access roads to
638 be prepared or used by the operator in the mining operation;

639 (ii) The location of any buildings, cemeteries,
640 public highways, railroad tracks, gas and oil wells, publicly
641 owned land, sanitary landfills, officially designated scenic
642 areas, utility lines, underground mines, transmission lines or
643 pipelines within the affected area or within five hundred (500)
644 feet of the exterior limits of the affected area;

645 (iii) The approximate location of the cuts or
646 excavations to be made in the surface and the estimated location
647 and height of spoil banks, and the total number of acres involved
648 in the affected area;

649 (iv) The date the map was prepared and a statement
650 of its accuracy by the person responsible for its preparation.

651 (b) The condition of the land to be covered by the
652 permit before any mining, including:

653 (i) The land use existing at the time of the
654 application, and if the land has a history of previous mining, the
655 land use, if reasonably ascertainable, which immediately preceded
656 any mining; and

657 (ii) The capability of the land before any mining
658 to support a variety of uses, giving consideration to soil and
659 foundation characteristics, topography and vegetative cover.

660 (c) The capacity of the land to support its anticipated
661 use following reclamation, including a discussion of the capacity
662 of the reclaimed land to support alternative uses.

663 (d) A description of how the proposed postmining land
664 condition is to be achieved and the necessary support activities
665 that may be needed to achieve the condition, including an estimate
666 of the cost per acre of the reclamation.

667 (e) The steps taken to comply with applicable air and

668 water quality and water rights laws and regulations and any
669 applicable health and safety standards, including copies of any
670 pertinent permit applications.

671 (f) A general timetable that the applicant estimates
672 will be necessary for accomplishing the major events contained in
673 the reclamation plan.

674 (g) Any other information as the Permit Board * * *
675 shall determine to be reasonably necessary to effectuate the
676 purposes of this chapter.

677 (2) The Permit Board may, in its discretion, authorize the
678 reclamation of lands in lieu of the lands included in the permit
679 application. * * * The acreage of the authorized lieu lands
680 reclaimed shall not be less than the acreage of the lands in the
681 permit application. Any applicant who proposes to reclaim lands
682 in lieu of those lands included in the permit application
683 shall * * * state that fact in the application or subsequent or
684 amended application and shall submit the reclamation plan
685 accordingly. The Permit Board shall not authorize the reclamation
686 of lieu lands unless the applicant submits with the reclamation
687 plan a notarized statement of each surface owner and lessee of all
688 lands included in the permit application. The statement shall
689 contain the consent of each surface owner and lessee * * * for the
690 reclamation of the proposed lieu lands. If the Permit Board does
691 not authorize the reclamation of the lieu lands, the applicant
692 shall submit a reclamation plan for the lands contained in the
693 permit application.

694 SECTION 15. Section 53-7-35, Mississippi Code of 1972, is
695 amended as follows:

696 53-7-35. (1) Any permit issued under this chapter * * *
697 shall require * * * operations to comply with all applicable
698 reclamation standards of this chapter. Reclamation standards
699 shall apply to all operations, exploration activities and
700 reclamation operations covered by this chapter and shall * * *

701 require the operator at a minimum to:

702 (a) Conduct operations in a manner consistent with
703 prudent mining practice, so as to maximize the utilization and
704 conservation of the resource being recovered; and, in keeping with
705 the intent of maximizing the value of mined land, stockpiles of
706 commercially valuable material may remain, if they are
707 ecologically stable. * * * Stockpiling shall be subject to * * *
708 rules and regulations adopted by the commission * * *;

709 (b) Restore the affected area so that it may be used
710 for a useful, productive and beneficial purpose, including an
711 agricultural, grazing, commercial, * * * residential or
712 recreational purpose, including lakes, ponds, wetlands, wildlife
713 habitat, or other natural or forested areas;

714 (c) Conduct water drainage and silt control for * * *
715 the affected area * * * to strictly control soil erosion, damage
716 to adjacent lands and pollution of * * * waters of the state, both
717 during and following the mining operations. Before, during and
718 for a reasonable period after mining, all drainways for the
719 affected area shall be protected with silt traps or dams of
720 approved design as directed by the regulations. The operator
721 may * * * impound water to provide wetlands, lakes or ponds of
722 approved design for wildlife, recreational or water supply
723 purposes, if it is a part of the approved reclamation plan;

724 (d) Remove or cover all metal, lumber and other refuse,
725 except vegetation, resulting from the operation;

726 (e) Regrade the area to the nearest approximate
727 original contour or rolling topography, and eliminate all
728 highwalls and spoil piles, except as provided in an approved
729 reclamation plan. Lakes, ponds or wetlands may be constructed, if
730 part of an approved reclamation plan;

731 (f) Stabilize and protect all * * * affected
732 areas * * * sufficiently to control erosion and attendant air and
733 water pollution;

734 (g) Remove the topsoil, if any, from the affected area
735 in a separate layer, and place it on any authorized lieu lands to
736 be reclaimed or replace it on the backfill area. * * * If not
737 utilized immediately, the topsoil shall be segregated in a
738 separate pile from other spoil. If the topsoil is not replaced on
739 a backfill area of authorized lieu lands within a time short
740 enough to avoid deterioration, * * * the topsoil shall be
741 protected by a successful cover of plants or by other means
742 approved by the Permit Board * * *. If topsoil is of insufficient
743 quantity or of poor quality for sustaining vegetation and if other
744 strata can be shown to be as suitable for vegetation requirements,
745 then the operator may petition the Permit Board for permission to
746 be exempt from the requirements for the removal, segregation and
747 preservation of topsoil and to remove, segregate and preserve in a
748 like manner * * * other strata which is best able to support
749 vegetation or to mix strata, if that mixing can be shown to be
750 equally suitable for revegetation requirements;

751 (h) Replace, if required * * *, available topsoil * * *
752 or the best available subsoil * * * on top of the land to be
753 reclaimed or on top of authorized lieu lands being reclaimed;
754 * * *

755 (i) Minimize the disturbances to the prevailing
756 hydrologic balance at the mine site and in associated off-site
757 areas and to the quality and quantity of water in surface and
758 groundwater systems both during and after surface mining
759 operations and during reclamation by:

760 (i) Avoiding acid or other toxic mine drainage by
761 using measures such as, but not limited to:

762 1. Preventing or removing water from contact
763 with toxic-material producing deposits;

764 2. Treating drainage to reduce toxic material
765 content; and

766 3. Casing, sealing or otherwise managing

767 boreholes, shafts and wells to keep acid or other toxic material
768 drainage from entering ground and surface waters;

769 (ii) Conducting operations * * * to prevent
770 unreasonable additional levels of suspended solids to streamflow
771 or runoff outside the permit area above natural levels under
772 seasonal flow conditions;

773 (iii) * * * Removing * * * temporary or large
774 siltation structures from drainways, consistent with good water
775 conservation practices, after disturbed areas are revegetated and
776 stabilized;

777 (iv) Performing any other actions as the
778 commission may prescribe under rules and regulations adopted under
779 this chapter;

780 (j) Stabilize any waste piles;

781 (k) * * * Incorporate current engineering practices for
782 the design and construction of water retention structures for the
783 disposal of mine wastes, processing wastes or other liquid or
784 solid wastes which, at a minimum, shall be compatible with the
785 requirements of * * * applicable state and federal laws and
786 regulations, insure that leachate will not pollute surface or
787 ground water, and locate water retention structures so as not to
788 endanger public health and safety should failure occur;

789 (l) Insure that all debris, acid-forming materials,
790 toxic materials or materials constituting a fire hazard are
791 treated or disposed of in a manner designed to prevent
792 contamination of ground or surface waters or combustion;

793 (m) Insure that construction, maintenance and
794 postmining conditions of access roads into and across the permit
795 area will minimize erosion and siltation, pollution of air and
796 water, damage to fish or wildlife or their habitat, or public or
797 private property. * * * The Permit Board may authorize the
798 retention after mining of certain access roads if compatible with
799 the approved reclamation plan;

800 (n) Refrain from the construction of roads or other
801 access ways up a stream bed or drainage channel or in proximity to
802 a channel where the construction would seriously alter the normal
803 flow of water;

804 (o) Revegetate the affected area with plants, approved
805 by the department, to attain a useful, productive and beneficial
806 purpose, including an agricultural, grazing, industrial,
807 commercial, residential or recreational purpose, including lakes,
808 ponds, wetlands, wildlife habitat or other natural or forested
809 areas;

810 (p) Assume responsibility for successful revegetation
811 for a period of two (2) years beyond the date of initial bond
812 release on any bond or deposit held by the department as provided
813 by Section 53-7-67;

814 (q) Assure with respect to permanent impoundments of
815 water as part of the approved reclamation plan * * * that:

816 (i) The size of the impoundment and the
817 availability of water are adequate for its intended purpose;

818 (ii) The impoundment dam construction will meet
819 the requirements of * * * applicable state and federal laws;

820 (iii) The quality of impounded water will be
821 suitable on a permanent basis for its intended use and the
822 discharges from the impoundment will not degrade the water quality
823 in the receiving stream;

824 (iv) Final grading will provide adequate safety
825 and access for anticipated water users; and

826 (v) * * * Water impoundments will not result in
827 the diminution of the quality or quantity of water utilized by
828 adjacent or surrounding landowners; and

829 (r) Protect off-site areas from slides or damage
830 occurring during the surface mining and reclamation operations,
831 and not deposit spoil material or locate any part of the
832 operations or waste accumulations outside the permit area.

833 (2) The purpose of this section is to cause the affected
834 area to be restored to a useful, productive and beneficial
835 purpose. A method of reclamation other than that provided in this
836 section may be approved by the Permit Board if the Permit Board
837 determines that the method of reclamation required by this section
838 is not practical and that the alternative method will provide for
839 the affected area to be restored to a useful, productive and
840 beneficial purpose. If an alternative method of reclamation is
841 generally applicable to all operations involving a particular
842 material, the commission may promulgate appropriate rules and
843 regulations for use of the alternative method.

844 (3) Each operator, except as authorized by the Permit Board,
845 shall perform reclamation work concurrently with the conduct of
846 the mining operation where practical. The fact that an operator
847 will likely redisturb an area shall be cause for the Permit Board
848 to grant an exception from the requirement of concurrent
849 reclamation.

850 (4) The operator and, in case of bond forfeiture, the
851 department or its designee, shall have the continuing right to
852 enter and inspect the affected area * * * in the reclamation plan
853 and to perform any reclamation measures required properly to
854 complete the reclamation plan.

855 (5) (a) If * * * the commission finds that (i) reclamation
856 of the affected area is not proceeding in accordance with the
857 reclamation plan and that the operator has failed within thirty
858 (30) days after notice to commence corrective action or * * * (ii)
859 revegetation has not been properly completed in conformance with
860 the reclamation plan within two (2) years or longer, if required
861 by the commission, after termination of mining operations or upon
862 revocation of the permit, or if the Permit Board revokes a permit,
863 the commission may initiate proceedings against the bond or
864 deposit filed by the operator. The proceedings shall not be
865 commenced with respect to a surety bond until the surety has been

866 given sixty (60) days to commence and a reasonable opportunity to
867 begin and complete corrective action. * * *

868 (b) A forfeiture proceeding against any performance
869 bond or deposit shall be commenced and conducted according to
870 Sections 49-17-31 through 49-17-41.

871 (c) If the commission orders forfeiture of any
872 performance bond or deposit, the entire sum of the performance
873 bond or deposit shall be forfeited to the department. The funds
874 from the forfeited performance bond or deposit shall be placed in
875 the appropriate account in the fund and used to pay for
876 reclamation of the permit area and remediation of any off-site
877 damages resulting from the operation. Any surplus performance
878 bond or deposit funds shall be refunded to the operator or
879 corporate surety.

880 (d) Forfeiture proceedings shall be before the
881 commission and an order of the commission under this subsection is
882 a final order. If the commission determines that forfeiture of
883 the performance bond or deposit should be ordered, the department
884 shall have the immediate right to all funds of any performance
885 bond or deposit, subject only to review and appeals allowed under
886 Section 49-17-41.

887 (e) If the operator cannot be located for purposes of
888 notice, the department shall send notice of the forfeiture
889 proceeding, certified mail, return receipt requested, to the
890 operator's last known address. The department shall also publish
891 notice of the forfeiture proceeding in a manner as required in
892 regulation by the commission. Any formal hearing on the bond
893 forfeiture shall be set at least thirty (30) days after the last
894 notice publication.

895 (f) If the performance bond or deposit is insufficient
896 to cover the costs of reclamation of the permit area in accordance
897 with the approved reclamation plan or remediation of any off-site
898 damages, the commission may initiate a civil action to recover the

899 deficiency amount in the county in which the surface mining
900 operation is located.

901 (g) If the commission initiates a civil action under
902 this section, the commission shall be entitled to any sums
903 necessary to complete reclamation of the permit area in accordance
904 with the approved reclamation plan and remediate any off-site
905 damages resulting from that operation.

906 (6) If a landowner, upon termination or expiration of a
907 lease, refuses to allow the operator to enter onto the property
908 designated as the affected area to conduct or complete reclamation
909 in accordance with the approved reclamation plan, or if the
910 landowner interferes with or authorizes a third party to disturb
911 or interfere with reclamation in accordance with the approved
912 reclamation plan, the landowner shall assume the permit and shall
913 file a reclamation plan and post a performance bond as required
914 under this chapter.

915 SECTION 16. Section 53-7-37, Mississippi Code of 1972, is
916 amended as follows:

917 53-7-37. (1) * * * Before * * * a permit is issued by the
918 Permit Board, the applicant shall file with the department in the
919 manner and form required by the commission a bond for performance
920 payable to the commission and conditioned on full and satisfactory
921 performance of * * * the requirements of this chapter and the
922 permit. The bond shall not be less than Five Hundred Dollars
923 (\$500.00) nor more than Two Thousand Five Hundred Dollars
924 (\$2,500.00) for each estimated acre of the permit area of the
925 respective operation. * * *

926 (2) The bond shall be executed by the applicant and a
927 corporate surety licensed to do business in the state. * * * The
928 applicant may elect to deposit the following in lieu of the surety
929 bond: cash, * * * negotiable bonds of the United States
930 Government or the state, * * * assignment of real or personal
931 property or a savings account acceptable to the department,

932 negotiable certificates of deposit or a letter of credit of any
933 bank organized or transacting business in the state and insured by
934 the Federal Deposit Insurance Corporation (FDIC) or the Federal
935 Savings and Loan Insurance Corporation (FSLIC) or a similar
936 federal banking or savings and loan insurance organization. The
937 cash deposit or market value of the securities shall be equal to
938 or greater than the amount of the bond required for the permit
939 area. Cash, negotiable bonds, negotiable certificates of deposit,
940 letter of credit, assignment of real or personal property or a
941 savings account or other securities shall be deposited on the same
942 terms as the terms on which surety bonds may be deposited.

943 (3) The amount of the bond or deposit required and the terms
944 of acceptance of the applicant's bond or deposit may be increased
945 or decreased by the Permit Board from time to time to reflect
946 changes in the cost of future reclamation of land mined or to be
947 mined subject to the limitations on the amount of the bond set
948 forth in this section.

949 (4) All state agencies, political subdivisions of the state
950 and local governing bodies shall be exempt from the bonding
951 requirements of this section.

952 SECTION 17. Section 53-7-39, Mississippi Code of 1972, is
953 amended as follows:

954 53-7-39. (1) The department shall conduct an initial review
955 of a completed permit application within thirty (30) days
956 following receipt of the completed application. The department
957 shall make a recommendation to the Permit Board on the permit
958 application no later than the next regularly scheduled Permit
959 Board meeting following the thirty-day initial review period,
960 unless a public hearing is held on the application or the
961 applicant agrees in writing to an additional time frame. If a
962 public hearing is held, the department shall make its
963 recommendation at the next regularly scheduled Permit Board
964 meeting following the public hearing, if practicable.

965 (2) An on-site inspection of the proposed affected area
966 shall be made by the department within the thirty-day time period
967 specified in subsection (1) of this section, and before a
968 permit * * * is * * * issued * * *.

969 * * *

970 SECTION 18. Section 53-7-41, Mississippi Code of 1972, is
971 amended as follows:

972 53-7-41. (1) The Permit Board, based upon the provisions of
973 this chapter, may issue, reissue, deny, modify, revoke, cancel,
974 rescind, suspend or transfer a permit for a surface mining
975 operation. The Head of the Office of Geology and Energy Resources
976 shall abstain in any action taken by the Permit Board under this
977 chapter.

978 (2) The Permit Board shall issue a permit if the Permit
979 Board determines that the applicant and completed application
980 comply with the requirements of this chapter.

981 (3) The Permit Board may deny a permit if:

982 (a) The Permit Board finds that the reclamation as
983 required by this chapter cannot be accomplished by means of the
984 proposed reclamation plan;

985 (b) Any part of the proposed operation lies within an
986 area designated as unsuitable for surface mining as designated by
987 Section 53-7-49 or 53-7-51;

988 (c) The Permit Board finds that the proposed mining
989 operation will cause pollution of any water of the state or of the
990 ambient air of the state in violation of applicable state and
991 federal laws and regulations * * *;

992 (d) The applicant has had any other permit issued under
993 this chapter revoked, or any bond or deposit posted to comply with
994 this chapter forfeited, and the conditions causing the permit to
995 be revoked or the bond or deposit to be forfeited have not been
996 corrected to the satisfaction of the Permit Board;

997 (e) The Permit Board determines that the proposed

998 operation will endanger the health and safety of the public or
999 will create imminent environmental harm;

1000 (f) The operation will likely adversely affect any
1001 public highway or road unless the operation is intended to
1002 stabilize or repair the public road or highway; or

1003 (g) The applicant is unable to meet the public
1004 liability insurance or performance bonding requirements of this
1005 chapter.

1006 (4) The Permit Board shall deny a permit if the Permit Board
1007 finds by clear and convincing evidence on the basis of the
1008 information contained in the permit application or obtained by
1009 on-site inspection that the proposed operation cannot comply with
1010 this chapter or rules and regulations adopted under this chapter
1011 or that the proposed method of operation, road system
1012 construction, shaping or revegetation of the affected area cannot
1013 be carried out in a manner consistent with this chapter and
1014 applicable state and federal laws, rules and regulations.

1015 (5) The Permit Board may hold a public hearing to obtain
1016 comments from the public on its proposed action. If the Permit
1017 Board holds a public hearing, the Permit Board shall publish
1018 notice and conduct the hearing as provided in Section 49-17-29.

1019 (6) The Permit Board may authorize the executive director,
1020 under any conditions the Permit Board may prescribe, to make
1021 decisions on permit issuance, reissuance, modification, rescission
1022 or cancellation under this chapter. A decision by the executive
1023 director is a decision of the Permit Board and shall be subject to
1024 formal hearing and appeal as provided in Section 49-17-29. The
1025 executive director shall report all permit decisions to the Permit
1026 Board at its next regularly scheduled meeting and those decisions
1027 shall be deemed as recorded in the minutes of the Permit Board at
1028 that time.

1029 (7) The Permit Board may cancel a permit at the request of
1030 the operator, if the operator does not commence operations under

1031 the permit by stripping, grubbing or mining any part of the permit
1032 area. The Permit Board may rescind a permit, if, because of a
1033 change in post-mining use of the land by the landowner, the
1034 completion of the approved reclamation plan by the operator is no
1035 longer feasible. If a permit is canceled or rescinded, the
1036 remaining portion of the bond or deposit required under Section
1037 53-7-37 shall be returned to the operator as soon as possible.

1038 SECTION 19. Section 53-7-43, Mississippi Code of 1972, is
1039 amended as follows:

1040 53-7-43. (1) Applications for the modification, transfer or
1041 reissuance of any surface mining permit issued under this chapter
1042 may be filed with the department. The Permit Board may modify any
1043 surface mining permit to increase or decrease the permit area and
1044 shall require an increase in the performance bond and a modified
1045 reclamation plan for any expanded area.

1046 (2) Any permit issued under this chapter shall carry with it
1047 the right of successive reissuance upon expiration for areas
1048 within the boundaries of the existing permit. The operator may
1049 apply for reissuance and that permit shall be reissued, except as
1050 provided in this subsection. On application for reissuance the
1051 burden of proving that the permit should not be reissued shall be
1052 on the opponents of reissuance or the department. If the
1053 opponents to reissuance or the department establish and the Permit
1054 Board finds, in writing, that the operator is not satisfactorily
1055 meeting the terms and conditions of the existing permit or the
1056 present surface mining and reclamation operation is not in
1057 compliance with this chapter and the rules and regulations issued
1058 under this chapter, the Permit Board shall not reissue the permit.

1059 (3) Any permit reissuance shall be for a term not to exceed
1060 the term of the original permit established by this chapter.
1061 Application for permit reissuance shall be filed with the Permit
1062 Board at least sixty (60) days before the expiration of the
1063 permit. If an application for reissuance is timely filed, the

1064 operator may continue surface mining operations under the existing
1065 permit until the Permit Board takes action on the reissuance
1066 application.

1067 SECTION 20. Section 53-7-45, Mississippi Code of 1972, is
1068 amended as follows:

1069 53-7-45.

1070 * * *

1071 Any interested party may seek a review or an appeal of any
1072 action or decision of the Permit Board under Sections 53-7-41 and
1073 53-7-43 as provided in Section 49-17-29.

1074 SECTION 21. Section 53-7-47, Mississippi Code of 1972, is
1075 amended as follows:

1076 53-7-47. To the extent that the commission, the Permit Board
1077 and the department may exercise jurisdiction over the areas
1078 specified in this section, no surface mining operation * * * shall
1079 be conducted on lands which are part of a national park, national
1080 monument, national historic landmark, any property listed on the
1081 national register of historic places, national forest, national
1082 wilderness area, national wildlife refuge, national wild or scenic
1083 river, state park, state wildlife refuge, state forest, recorded
1084 state historical landmark, state historic site, state
1085 archaeological landmark or city or county park, forest or
1086 historical area. * * * For good cause shown and after any public
1087 hearing the commission may elect to hold, the commission may make
1088 an exception to this section.

1089 SECTION 22. Section 53-7-49, Mississippi Code of 1972, is
1090 amended as follows:

1091 53-7-49. (1) With the assistance of the Mississippi
1092 Department of Wildlife, Fisheries and Parks and the Mississippi
1093 Department of Marine Resources, the * * * commission shall
1094 identify and designate as unsuitable certain lands for all or
1095 certain types of surface mining. * * * The commission shall adopt
1096 rules and regulations to provide reasonable notice to prospective

1097 operators of areas which might be designated as unsuitable for
1098 surface mining and any other interested parties. The commission
1099 may designate areas as unsuitable for surface mining lands if the
1100 commission determines:

1101 (a) The operations will result in significant damage to
1102 important areas of historic, cultural or archaeological value or
1103 to important natural systems;

1104 (b) The operations will affect renewable resource lands
1105 resulting in a substantial loss or reduction of long-range
1106 productivity of water supply or food or fiber products, including
1107 aquifers and aquifer recharge areas;

1108 (c) The operations are located in areas of unstable
1109 geological formations and may reasonably be expected to endanger
1110 life and property;

1111 (d) The operations will damage ecologically sensitive
1112 areas;

1113 (e) The operations will significantly and adversely
1114 affect any national park, national monument, national historic
1115 landmark, property listed on the national register of historic
1116 places, national forest, national wilderness area, national
1117 wildlife refuge, national wild or scenic river area, state park,
1118 state wildlife refuge, state forest, recorded state historical
1119 landmark, state historic site, state archaeological landmark, or
1120 city or county park;

1121 (f) The operations will endanger any public road,
1122 public building, cemetery, school, church or similar structure or
1123 existing dwelling outside the permit area; or

1124 (g) The operations and the affected area cannot be
1125 reclaimed feasibly under the requirements of this chapter * * *.

1126 (2) Unless an operation is exempted under Section
1127 53-7-7(2)(a) or 53-7-7(2)(b), it is unlawful to conduct surface
1128 mining operations within an area designated as unsuitable for
1129 surface mining under Section 53-7-49 or this section or to conduct

1130 surface mining operations in rivers, lakes, bayous, intermittent
1131 or perennial streams or navigable waterways, natural or manmade,
1132 without a permit or coverage under a general permit issued or
1133 reissued consistent with regulations adopted by the commission.

1134 SECTION 23. Section 53-7-51, Mississippi Code of 1972, is
1135 amended as follows:

1136 53-7-51. (1) The commission, upon petition, may designate,
1137 modify or terminate the designation of an area as unsuitable for
1138 surface mining. The commission, upon its own motion, may
1139 terminate the designation of an area as unsuitable for surface
1140 mining. The commission may conduct a public hearing on its
1141 proposed action in accordance with Section 49-17-33. Before
1142 terminating an area as unsuitable for surface mining, the
1143 commission shall provide notice as required under Section 53-7-11.

1144 (2) A petition shall contain allegations of facts with
1145 supporting evidence. The commission shall make a determination
1146 based upon the validity of the facts contained in the petition,
1147 and may designate, modify or terminate the designation of the
1148 lands included in the petition as unsuitable for mining.

1149 (3) Any person aggrieved by an action of the commission
1150 under this section may appeal as provided in Section 49-17-41.

1151 SECTION 24. Section 53-7-53, Mississippi Code of 1972, is
1152 amended as follows:

1153 53-7-53. The Permit Board shall require each permittee to:

1154 (a) Establish and maintain appropriate records;

1155 (b) Make reports, the frequency and nature of which
1156 shall be prescribed by the commission; and

1157 (c) Install, use and maintain any necessary monitoring
1158 equipment for the purpose of observing and determining relevant
1159 surface or subsurface effects of the mining operation or
1160 reclamation program.

1161 SECTION 25. Section 53-7-55, Mississippi Code of 1972, is
1162 amended as follows:

1163 53-7-55. (1) * * * Authorized representatives of the
1164 department, on presentation of appropriate credentials * * *, may
1165 enter and inspect any operation or any premises in which * * *
1166 records required to be maintained under Section 53-7-53 are
1167 located and may at reasonable times, and without delay, have
1168 access to and copy any records and inspect any monitoring
1169 equipment or method of operation required under this chapter.

1170 (2) * * * Inspections of operations with or without a permit
1171 by the department shall occur on an irregular basis at a frequency
1172 necessary to insure compliance with * * * this chapter, * * *
1173 rules and regulations and the terms and conditions of any permit.
1174 Inspections shall occur only during normal operating hours if
1175 practical, may occur without prior notice to the permittee or the
1176 agents or employees of the permittee, and shall include the filing
1177 of an inspection report. * * * The department shall make those
1178 reports part of the record and shall provide one (1) copy of the
1179 report to the operator. The department shall, * * * as practical,
1180 establish a system of rotation of field inspectors.

1181 (3) Each field inspector, on detection of each violation
1182 of * * * this chapter, rules and regulations adopted under this
1183 chapter or the permit for the operation, shall * * * inform the
1184 operator or the operator's agent orally at the time of the
1185 inspection and subsequently in writing and shall report * * *
1186 any * * * violation in writing to the commission.

1187 SECTION 26. Section 53-7-57, Mississippi Code of 1972, is
1188 amended as follows:

1189 53-7-57. Any representative of the local soil and water
1190 conservation district, upon presentation of appropriate
1191 credentials * * * may enter and inspect the operation for the
1192 purpose of making recommendations regarding reclamation
1193 activities * * *. The representative shall make any
1194 recommendations on the progress of reclamation activities in
1195 writing to the Permit Board.

1196 SECTION 27. Section 53-7-59, Mississippi Code of 1972, is
1197 amended as follows:

1198 53-7-59. (1) Any person who violates, or fails or refuses
1199 to comply with this chapter, any rule or regulation or written
1200 order of the commission adopted or issued under this chapter or
1201 any condition of a permit or coverage under a general permit
1202 issued under this chapter may be subject to a civil penalty to be
1203 assessed and levied by the commission after notice and opportunity
1204 for a formal hearing. In addition to assessing civil penalties
1205 under this section, the commission may submit a written statement
1206 to the Permit Board recommending that the Permit Board revoke the
1207 permit for any operation which is subject to the maximum penalty
1208 of Twenty-five Thousand Dollars (\$25,000.00). Appeals of any
1209 action or decision of the commission may be taken as provided in
1210 Section 49-17-41.

1211 (2) Any civil penalty assessed against a permitted, covered
1212 or exempt operation and levied by the commission under this
1213 section shall not exceed Five Hundred Dollars (\$500.00) for the
1214 first violation; for subsequent violations committed within three
1215 (3) years of the first violation the maximum penalties are: Two
1216 Thousand Five Hundred Dollars (\$2,500.00) for the second
1217 violation, Five Thousand Dollars (\$5,000.00) for the third
1218 violation and Twenty-five Thousand Dollars (\$25,000.00) for the
1219 fourth and subsequent violations by the same operator. Multiple
1220 violations at a site during one (1) day shall not be cumulative.
1221 A separate penalty shall not be assessed for each violation and
1222 only one (1) penalty may be assessed for all violations occurring
1223 at a site during one (1) day. Each day of a continuing violation
1224 shall be a separate violation until corrective action is taken or
1225 the operator after notice of the violation is diligently pursuing
1226 efforts to achieve compliance in a timely manner. In assessing a
1227 penalty under this subsection, the commission shall not consider
1228 offenses occurring before July 1, 1999. In addition to the civil

1229 penalty authorized under this subsection, the commission may order
1230 an operator of a permitted, covered or exempt operation to reclaim
1231 the affected area.

1232 (3) Any civil penalty assessed against an operator for
1233 mining without a permit and levied by the commission under this
1234 section shall not exceed Five Thousand Dollars (\$5,000.00) for the
1235 first violation, Ten Thousand Dollars (\$10,000.00) for the second
1236 violation and Twenty-five Thousand Dollars (\$25,000.00) for the
1237 third and subsequent violations by an operator. In assessing a
1238 penalty under this subsection, the commission shall not consider
1239 violations occurring before July 1, 1999.

1240 (4) In determining the amount of penalty under this chapter,
1241 the commission shall consider at a minimum:

1242 (a) The willfulness of the violation;

1243 (b) Any damage to air, water, land or other natural
1244 resources of the state or their uses;

1245 (c) Costs of restoration and abatement;

1246 (d) Economic benefit as a result of noncompliance;

1247 (e) The seriousness of the violation, including any
1248 harm to the environment and any hazard to the health, safety and
1249 welfare of the public; and

1250 (f) Past performance history.

1251 (5) The commission may institute and maintain a civil action
1252 for relief, including a permanent or temporary injunction or any
1253 other appropriate order, in the chancery court of the county in
1254 which the majority of the surface mining operation is located.
1255 The chancery court shall have jurisdiction to provide relief as
1256 may be appropriate. Any relief granted by the court to enforce a
1257 written order of the commission shall continue in effect until the
1258 completion of all proceedings for review of that order under this
1259 chapter, unless the chancery court granting the relief sets it
1260 aside or modifies it before that time.

1261 (6) Any provisions of this section and chapter regarding

1262 liability for the costs of clean-up, removal, remediation or
1263 abatement of any pollution, hazardous waste or solid waste shall
1264 be limited as provided in Section 49-17-42 and rules adopted under
1265 that section.

1266 (7) Any violation of this law and the Mississippi Air and
1267 Water Pollution Control Law or the Solid Wastes Disposal Law of
1268 1974 shall be assessed a civil penalty under only one (1) of these
1269 laws.

1270 SECTION 28. Section 53-7-61, Mississippi Code of 1972, is
1271 amended as follows:

1272 53-7-61. (1) Any person who knowingly makes any false
1273 statement, representation or certification, or knowingly fails to
1274 make any statement, representation or certification in any
1275 application, record, report, plan or other document filed or
1276 required to be maintained under this chapter is guilty of a
1277 misdemeanor and upon conviction, may be subject to a fine of not
1278 more than Five Thousand Dollars (\$5,000.00).

1279 (2) Any person who * * * knowingly violates, * * * or fails
1280 or refuses to comply with * * * this chapter, any rule or
1281 regulation or written order of the commission adopted or issued
1282 under this chapter, or any condition of a permit issued under this
1283 chapter, is guilty of a misdemeanor and, upon conviction, may be
1284 subject to a fine of not more than Five Thousand Dollars
1285 (\$5,000.00).

1286 SECTION 29. Section 53-7-63, Mississippi Code of 1972, is
1287 amended as follows:

1288 53-7-63. (1) Unless otherwise expressly provided in this
1289 chapter, any interested party aggrieved by any action of the
1290 Permit Board taken under this chapter may request a formal hearing
1291 before the Permit Board as provided in Section 49-17-29. Any
1292 person aggrieved by any action of the commission taken under this
1293 chapter may request a formal hearing before the commission as
1294 provided in Section 49-17-41. Any person who participated as a

1295 party in a formal hearing before the Permit Board may appeal from
1296 a final decision of the Permit Board made under this chapter as
1297 provided in Section 49-17-29. Any person who participated as a
1298 party in a formal hearing before the commission may appeal from a
1299 final decision of the commission made under this chapter as
1300 provided in Section 49-17-41.

1301 (2) (a) Any public hearing of the Permit Board provided for
1302 under this chapter shall be deemed to be the same hearing as
1303 otherwise afforded to any interested party by the Permit Board
1304 under Section 49-17-29. Any formal hearing of the Permit Board
1305 provided for under this chapter shall be deemed to be the same
1306 hearing as otherwise afforded to any interested party by the
1307 Permit Board under Section 49-17-29.

1308 (b) Any public hearing of the commission provided for
1309 under this chapter shall be deemed to be the same hearing as
1310 afforded under Section 49-17-35. Any formal hearing of the
1311 commission provided for under this chapter shall be deemed to be
1312 the same hearing as afforded under Section 49-17-41.

1313 (3) (a) In conducting any formal hearing under this
1314 chapter, the Permit Board shall have the same authority to
1315 subpoena witnesses, administer oaths, examine witnesses under oath
1316 and conduct the hearing as provided in Section 49-17-29.

1317 (b) In conducting any formal hearing under this chapter
1318 the commission shall have the same authority to subpoena
1319 witnesses, administer oaths, examine witnesses under oath and
1320 conduct the hearing as provided in Section 49-17-41.

1321 SECTION 30. Section 53-7-65, Mississippi Code of 1972, is
1322 amended as follows:

1323 53-7-65. (1) When an employee of the department files a
1324 report alleging a violation or when any person files a complaint
1325 with the commission alleging that any other person is in violation
1326 of this chapter, any rule and regulation issued under this
1327 chapter, or any condition of a permit issued under this chapter,

1328 the commission shall notify the alleged violator and conduct an
1329 investigation of the complaint. Upon finding a basis for the
1330 complaint, the commission shall cause written notice of the
1331 complaint, specifying the section of law, rule, regulation or
1332 permit alleged to be violated and the facts of the alleged
1333 violations, to be served upon that person. The commission may
1334 require the person to appear before the commission at a time and
1335 place specified in the notice to answer the charges. The time of
1336 appearance before the commission shall be not less than twenty
1337 (20) days from the date of the mailing or service of the
1338 complaint, whichever is earlier. If the commission finds no basis
1339 for the complaint, the commission shall dismiss the complaint.

1340 (2) The commission shall afford an opportunity for a formal
1341 hearing to the alleged violator at the time and place specified in
1342 the notice or at another time or place agreed to in writing by
1343 both the department and the alleged violator, and approved by the
1344 commission. On the basis of the evidence produced at the formal
1345 hearing, the commission may enter an order which in its opinion
1346 will best further the purposes of this chapter and shall give
1347 written notice of that order to the alleged violator and to any
1348 other persons which appeared at the formal hearing or made written
1349 request for notice of the order. The commission may assess
1350 penalties as provided in Section 53-7-59. Any formal hearing
1351 under this section shall be of record.

1352 (3) Except as otherwise expressly provided, any notice or
1353 other instrument issued by or under authority of the commission
1354 may be served on any affected person personally or by publication,
1355 and proof of that service may be made in the same manner as in
1356 case of service of a summons in a civil action. The proof of
1357 service shall be filed in the office of the commission. Service
1358 may also be made by mailing a copy of the notice, order, or other
1359 instrument by certified mail, directed to the person affected at
1360 the person's last known post office address as shown by the files

1361 or records of the commission. Proof of service may be made by the
1362 affidavit of the person who did the mailing and shall be filed in
1363 the office of the commission.

1364 (4) Any person who participated as a party in the formal
1365 hearing may appeal a decision of the commission under this section
1366 as provided in Section 49-17-41.

1367 SECTION 31. Section 53-7-67, Mississippi Code of 1972, is
1368 amended as follows:

1369 53-7-67. (1) Upon completion of the operation in the permit
1370 area * * *, the operator may file an application with the Permit
1371 Board for the release of the performance bond * * * or deposit.
1372 The application for performance bond release shall require a
1373 description of the results achieved in accordance with the
1374 operator's reclamation plan, which includes revegetation and end
1375 result plans, and any other information the Permit Board may
1376 require in accordance with * * * this chapter. The Permit Board
1377 shall file a copy of the performance bond release application for
1378 public inspection with the chancery clerk of the county * * *
1379 where the majority of the surface mining * * * operation is
1380 located and with the local soil and water conservation district.
1381 The Permit Board shall give notice of the pending bond release
1382 application by publication in the form as the commission by
1383 regulation may require after inspecting and evaluating the
1384 reclamation work as provided by subsection (2) of this
1385 section. * * *

1386 (2) After receipt of the application for bond release, the
1387 department shall, and the local soil and water district
1388 commissioners may, within * * * thirty (30) days, conduct an
1389 inspection and evaluation of the reclamation work involved. The
1390 evaluation shall consider, among other things, the occurrence of
1391 pollution of surface and subsurface water * * *, the probability
1392 of continuance or future occurrence of * * * pollution, and the
1393 estimated cost of abating the pollution. Results of the

1394 evaluation and findings of the department or the soil and water
1395 commissioners, or both, shall be provided within thirty (30) days
1396 after the inspection to the operator and other interested parties
1397 making written request for the evaluation and findings. The
1398 evaluation and findings of the soil and water commissioners if any
1399 shall be forwarded to the department before the end of the thirty
1400 (30) days.

1401 (3) The Permit Board may release in whole or in part the
1402 performance bond * * * or deposit if it is satisfied that
1403 reclamation covered by the performance bond * * * or deposit or
1404 portion thereof has been accomplished as required by this chapter
1405 according to the following schedule:

1406 (a) When the operator or surety completes required
1407 backfilling, regrading, and drainage control of a bonded area in
1408 accordance with the approved reclamation plan, the Permit Board
1409 may release * * * up to ninety percent (90%) of the performance
1410 bond * * * or deposit for the applicable permit area. * * * The
1411 amount of the unreleased portion of the performance bond * * * or
1412 deposit shall not be less than the amount necessary to assure
1413 completion of the reclamation work by a third party in the event
1414 of default by the operator; and

1415 (b) When the operator has successfully completed the
1416 remaining reclamation activities, but not before two (2) years
1417 beyond the date of the initial performance bond release, the
1418 Permit Board may release the remaining portion of the performance
1419 bond * * * or deposit. * * * No performance bond * * * or deposit
1420 shall be fully released until all reclamation requirements of this
1421 chapter are fully met.

1422 (c) Notwithstanding the provisions of paragraphs (a)
1423 and (b) of this section, the Permit Board may release one hundred
1424 percent (100%) of the performance bond * * * or deposit to private
1425 contractors surface mining on areas provided to them by the United
1426 States Army Corps of Engineers. * * * The Permit Board may

1427 release the performance bond * * * or deposit only if the
1428 contractors have completed the reclamation work required in
1429 paragraph (a) of this subsection and the Corps of Engineers
1430 furnishes written assurance to the Permit Board that it accepts
1431 responsibility for restoration of the mined areas in accordance
1432 with all applicable reclamation standards of this chapter.

1433 (4) If the Permit Board denies the application for release
1434 of the performance bond * * * or deposit or portion thereof, it
1435 shall notify the operator, in writing, stating the reasons for
1436 denial and recommending corrective actions necessary to secure the
1437 release.

1438 (5) The Permit Board shall authorize the executive director
1439 under those conditions the Permit Board may prescribe to
1440 administratively release any performance bond or deposit provided
1441 by an operator for coverage under a general permit issued under
1442 Section 53-7-23. A decision of the executive director is a
1443 decision of the Permit Board and shall be subject to review and
1444 appeal as provided in Section 49-17-29.

1445 SECTION 32. Section 53-7-69, Mississippi Code of 1972, is
1446 amended as follows:

1447 53-7-69. (1) There is created in the State Treasury a fund
1448 to be designated as the "Surface Mining and Reclamation Fund,"
1449 referred to hereinafter as the "fund." There is created in the
1450 fund an account designated as the "Land Reclamation Account" and
1451 an account designated as the "Surface Mining Program Operations
1452 Account."

1453 (2) The fund shall be treated as a special trust fund.
1454 Interest earned on the principal therein shall be credited by the
1455 Treasurer to the fund.

1456 (3) The fund may receive monies from any available public or
1457 private sources, including, but not limited to, collection of
1458 fees, interest, grants, taxes, public and private donations,
1459 judicial actions, penalties and forfeited performance bonds. Any

1460 monies received from penalties, forfeited performance bonds,
1461 judicial actions and the interest thereon, less enforcement and
1462 collection costs, shall be credited to the Land Reclamation
1463 Account. Any monies received from the collection of fees, grants,
1464 taxes, public or private donations and the interest thereon shall
1465 be credited to the Surface Mining Program Operations Account.

1466 (4) The commission shall expend or utilize monies in the
1467 fund by an annual appropriation by the Legislature as provided
1468 herein. Monies in the Land Reclamation Account may be used to
1469 defray any costs of reclamation of land affected by mining
1470 operations. Monies in the Surface Mining Program Operations
1471 Account may be used to defray the reasonable direct and indirect
1472 costs associated with the administration and enforcement of this
1473 chapter.

1474 (5) Proceeds from the forfeiture of performance bonds * * *
1475 or deposits and penalties recovered shall be available to be
1476 expended to reclaim, in accordance with * * * this chapter, lands
1477 with respect to which the performance bonds * * * or deposits were
1478 provided and penalties assessed. If the commission expends monies
1479 from the fund for which the cost of reclamation exceeded the
1480 proceeds from the forfeiture of performance bonds or deposits, the
1481 commission may seek to recover any monies expended from the fund
1482 from any responsible party.

1483 SECTION 33. Section 53-7-71, Mississippi Code of 1972, is
1484 amended as follows:

1485 53-7-71. In the reclamation of land affected by surface
1486 mining for which it has funds available, the commission may avail
1487 itself of any services which may be provided by other state
1488 agencies, political subdivisions or the federal government, and
1489 may compensate them for the services. The commission may cause
1490 the reclamation work to be done through contract with other
1491 governmental agencies or * * * with qualified persons. The
1492 contracts shall be awarded as provided by state law and policies

1493 of the commission. * * * Any person under * * * contract to the
1494 commission may enter onto the land affected to carry out the
1495 reclamation.

1496 SECTION 34. Section 53-7-75, Mississippi Code of 1972, is
1497 amended as follows:

1498 53-7-75. (1) Information submitted to the department,
1499 commission, Permit Board or local soil and water conservation
1500 district * * * pertaining to the deposits of materials, * * *
1501 trade secrets or privileged commercial or financial information
1502 relating to the competitive rights of the applicant and which is
1503 specifically identified as confidential, * * * shall not be
1504 available for public examination and shall not be considered as a
1505 public record if:

1506 (a) The applicant submits a written confidentiality
1507 claim to the commission before submission of the information; and
1508 (b) The commission determines the confidentiality claim
1509 to be valid.

1510 (2) The confidentiality claim shall include a generic
1511 description of the nature of the information included in the
1512 submission. The commission shall adopt rules and regulations
1513 consistent with the Mississippi Public Records Act regarding
1514 access to confidential information. Any information for which a
1515 confidentiality claim is asserted shall not be disclosed pending
1516 the outcome of any formal hearing and all appeals.

1517 (3) Any person knowingly and willfully making unauthorized
1518 disclosures of any information determined to be confidential shall
1519 be liable for civil damages arising from the unauthorized
1520 disclosure and, upon conviction, shall be guilty of a misdemeanor
1521 and shall be fined a sum not to exceed One Thousand Dollars
1522 (\$1,000.00) and dismissed from public office or employment.

1523 (4) This section shall be supplemental to remedies for
1524 misappropriation of a trade secret provided in the Mississippi
1525 Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

1526 SECTION 35. Section 53-7-13, Mississippi Code of 1972, which
1527 requires the Board of the Geological, Economic and Topographical
1528 Survey to establish regulations on surface mining, is repealed.

1529 SECTION 36. Section 53-7-15, Mississippi Code of 1972, which
1530 requires the Board of the Geological, Economic and Topographical
1531 Survey to hold certain hearings, is repealed.

1532 SECTION 37. Section 53-7-33, Mississippi Code of 1972, which
1533 requires soil and water conservation commissioners to submit
1534 written recommendations on reclamation plans affecting their
1535 districts, is repealed.

1536 SECTION 38. Section 53-7-73, Mississippi Code of 1972, which
1537 provides a temporary suspension for an operator to suspend mining
1538 operations for two (2) years and to resume operations after giving
1539 notice, is repealed.

1540 SECTION 39. This act shall take effect and be in force from
1541 and after July 1, 1999.