

By: Senator(s) Dearing

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

SENATE BILL NO. 2300

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
158 or 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, 2001; and

242 (ii) The operator notified the commission of the
243 commencement, expansion or resumption of the operation before July
244 1, 2001; 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 June
248 30, 2001, 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 proposed
319 actions regarding rules and regulations and any other person the
320 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 * * *
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
420 chapter. * * *

421 * * *

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

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



431 properly reclaim the permit area. The Permit Board may include
432 other conditions as required by the rules and regulations of the
433 commission.

434 (2) Before commencing any operation for which coverage under
435 a general permit may be obtained, each applicant for coverage
436 under a general permit shall submit to the department an
437 application in the form and containing the information as the
438 department shall specify, including a copy of the proposed initial
439 reclamation plan and except as otherwise provided by this section,
440 a performance bond in an amount proposed by the applicant to be
441 sufficient to properly reclaim the permit area. As the operation
442 progresses, the applicant may revise the reclamation plan and
443 submit the revised plan to the department for approval. The
444 amount of the proposed performance bond shall not be less than the
445 minimum provided in Section 53-7-37.

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



464 applicant submits a copy of the bond posted with the Mississippi
465 Department of Transportation or the Division of State Aid Road
466 Construction. The Mississippi Department of Transportation or the
467 Division of State Aid Road Construction shall not release the bond
468 until all reclamation requirements of the general permit issued
469 under this section have been met. No operation conducted under a
470 general permit issued under this subsection shall be conducted in
471 lands designated as unsuitable for mining under Section 53-7-49 or
472 53-7-51. The Permit Board may include other conditions as
473 required by the rules and regulations of the commission in the
474 general permit issued under this section.

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

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

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



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

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

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

504 53-7-27. (1) Before commencing any operation for which a
505 permit is required, each applicant for a permit shall submit to
506 the Permit Board an application, a proposed initial reclamation
507 plan and a performance bond in an amount proposed to be sufficient
508 by the applicant to reclaim the permit area.

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

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

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

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

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



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

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

534 (g) The type and method of operation, the engineering
535 techniques and the equipment that is proposed to be used,
536 including mining schedules, the nature and expected amount of
537 overburden to be removed, the depth of excavations, a description
538 of the * * * permit area, the anticipated hydrologic consequences
539 of the mining operation, and the proposed use of explosives for
540 blasting, including the nature of the explosive, the proposed
541 location of the blasting and the expected effect of the blasting;

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

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

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

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

558 (l) If the surface and mineral estates, or any part of
559 those estates, in land covered by the application, have been
560 severed and are owned by separate owners, the applicant shall
561 provide a notarized statement subscribed to by each surface owner



562 and lessee of those lands, unless the lease or other conveyance to
563 the applicant specifically states the material to be mined by the
564 operator granting consent for the applicant to initiate and
565 conduct surface mining, exploration and reclamation activities on
566 the land;

567 (m) Except for governmental agencies, a certificate of
568 insurance certifying that the applicant has in force a public
569 liability insurance policy issued by an insurance company
570 authorized to conduct business in the State of Mississippi
571 covering all operations of the applicant in this state and
572 affording bodily injury protection and property damage protection
573 in an amount not less than the following:

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

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

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

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

588 (o) Any other information needed to clarify the
589 required parts of the application.

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

592 53-7-29. (1) The department shall file a copy of each
593 permit application * * * for public inspection with the chancery
594 clerk * * * of the county where any * * * portion of the operation



595 is proposed to occur. The department shall delete any
596 confidential information in accordance with Section 53-7-75.

597 (2) The department shall * * * submit copies, excluding all
598 confidential information, of the permit application as soon as
599 possible to: (a) the Mississippi Soil and Water Conservation
600 Commission, * * * the Office of Pollution Control and the Office
601 of Land and Water Resources within the department, the Mississippi
602 Forestry Commission, * * * the Mississippi Department of Archives
603 and History, the Mississippi Department of Transportation, the
604 Mississippi Department of Wildlife, Fisheries and Parks, the
605 Mississippi State Oil and Gas Board and the Mississippi Department
606 of Agriculture and Commerce; * * * (b) any other state agency
607 whose jurisdiction the department feels the particular mining
608 operation may affect; * * * (c) any person who makes written
609 request for a copy of the application; and (d) the owner of the
610 land. The department shall require payment of a reasonable fee
611 established by the commission for reimbursement of the costs of
612 reproducing and providing the copy.

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

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



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

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

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

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

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

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

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

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



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

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

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

669 (e) The steps taken to comply with applicable air and
670 water quality and water rights laws and regulations and any
671 applicable health and safety standards, including copies of any
672 pertinent permit applications.

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

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

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



692 for the reclamation of the proposed lieu lands. If the Permit
693 Board does not authorize the reclamation of the lieu lands, the
694 applicant shall submit a reclamation plan for the lands contained
695 in the permit application.

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

698 53-7-35. (1) Any permit issued under this chapter * * *
699 shall require * * * operations to comply with all applicable
700 reclamation standards of this chapter. Reclamation standards
701 shall apply to all operations, exploration activities and
702 reclamation operations covered by this chapter and shall * * *
703 require the operator at a minimum to:

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

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

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



724 approved design for wildlife, recreational or water supply
725 purposes, if it is a part of the approved reclamation plan;

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

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

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

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

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

756 * * *



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

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

764 1. Preventing or removing water from contact
765 with toxic-material producing deposits;

766 2. Treating drainage to reduce toxic material
767 content; and

768 3. Casing, sealing or otherwise managing
769 boreholes, shafts and wells to keep acid or other toxic material
770 drainage from entering ground and surface waters;

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

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

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

782 (j) Stabilize any waste piles;

783 (k) * * * Incorporate current engineering practices for
784 the design and construction of water retention structures for the
785 disposal of mine wastes, processing wastes or other liquid or
786 solid wastes which, at a minimum, shall be compatible with the
787 requirements of * * * applicable state and federal laws and
788 regulations, insure that leachate will not pollute surface or



789 ground water, and locate water retention structures so as not to
790 endanger public health and safety should failure occur;

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

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

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

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

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

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

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

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



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

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

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

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

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

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

852 (4) The operator and, in case of bond forfeiture, the
853 department or its designee, shall have the continuing right to
854 enter and inspect the affected area * * * in the reclamation plan



855 and to perform any reclamation measures required properly to
856 complete the reclamation plan.

857 (5) (a) If * * * the commission finds that (i) reclamation
858 of the affected area is not proceeding in accordance with the
859 reclamation plan and that the operator has failed within thirty
860 (30) days after notice to commence corrective action, or * * *
861 (ii) revegetation has not been properly completed in conformance
862 with the reclamation plan within two (2) years or longer, if
863 required by the commission, after termination of mining operations
864 or upon revocation of the permit, or if the Permit Board revokes a
865 permit, the commission may initiate proceedings against the bond
866 or deposit filed by the operator. The proceedings shall not be
867 commenced with respect to a surety bond until the surety has been
868 given sixty (60) days to commence and a reasonable opportunity to
869 begin and complete corrective action. * * *

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

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

882 (d) Forfeiture proceedings shall be before the
883 commission and an order of the commission under this subsection is
884 a final order. If the commission determines that forfeiture of
885 the performance bond or deposit should be ordered, the department
886 shall have the immediate right to all funds of any performance



887 bond or deposit, subject only to review and appeals allowed under
888 Section 49-17-41.

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

897 (f) If the performance bond or deposit is insufficient
898 to cover the costs of reclamation of the permit area in accordance
899 with the approved reclamation plan or remediation of any off-site
900 damages, the commission may initiate a civil action to recover the
901 deficiency amount in the county in which the surface mining
902 operation is located.

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

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

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



919 53-7-37. (1) * * * Before * * * a permit is issued by the
920 Permit Board, the applicant shall file with the department in the
921 manner and form required by the commission a bond for performance
922 payable to the commission and conditioned on full and satisfactory
923 performance of * * * the requirements of this chapter and the
924 permit. The bond shall not be less than Five Hundred Dollars
925 (\$500.00) nor more than Two Thousand Five Hundred Dollars
926 (\$2,500.00) for each estimated acre of the permit area of the
927 respective operation. * * *

928 (2) The bond shall be executed by the applicant and a
929 corporate surety licensed to do business in the state. * * * The
930 applicant may elect to deposit the following in lieu of the surety
931 bond: cash, * * * negotiable bonds of the United States
932 Government or the state, * * * assignment of real or personal
933 property or a savings account acceptable to the department,
934 negotiable certificates of deposit or a letter of credit of any
935 bank organized or transacting business in the state and insured by
936 the Federal Deposit Insurance Corporation (FDIC) or the Federal
937 Savings and Loan Insurance Corporation (FSLIC) or a similar
938 federal banking or savings and loan insurance organization. The
939 cash deposit or market value of the securities shall be equal to
940 or greater than the amount of the bond required for the permit
941 area. Cash, negotiable bonds, negotiable certificates of deposit,
942 letters of credit, assignment of real or personal property or a
943 savings account or other securities shall be deposited on the same
944 terms as the terms on which surety bonds may be deposited.

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



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

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

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

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

971 * * *

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

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

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

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



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

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

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

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

999 (e) The Permit Board determines that the proposed
1000 operation will endanger the health and safety of the public or
1001 will create imminent environmental harm;

1002 (f) The operation will likely adversely affect any
1003 public highway or road unless the operation is intended to
1004 stabilize or repair the public road or highway; or

1005 (g) The applicant is unable to meet the public
1006 liability insurance or performance bonding requirements of this
1007 chapter.

1008 (4) The Permit Board shall deny a permit if the Permit Board
1009 finds by clear and convincing evidence on the basis of the
1010 information contained in the permit application or obtained by
1011 on-site inspection that the proposed operation cannot comply with
1012 this chapter or rules and regulations adopted under this chapter
1013 or that the proposed method of operation, road system
1014 construction, shaping or revegetation of the affected area cannot
1015 be carried out in a manner consistent with this chapter and
1016 applicable state and federal laws, rules and regulations.



1017 (5) The Permit Board may hold a public hearing to obtain
1018 comments from the public on its proposed action. If the Permit
1019 Board holds a public hearing, the Permit Board shall publish
1020 notice and conduct the hearing as provided in Section 49-17-29.

1021 (6) The Permit Board may authorize the executive director,
1022 under any conditions the Permit Board may prescribe, to make
1023 decisions on permit issuance, reissuance, modification, rescission
1024 or cancellation under this chapter. A decision by the executive
1025 director is a decision of the Permit Board and shall be subject to
1026 formal hearing and appeal as provided in Section 49-17-29. The
1027 executive director shall report all permit decisions to the Permit
1028 Board at its next regularly scheduled meeting and those decisions
1029 shall be deemed as recorded in the minutes of the Permit Board at
1030 that time.

1031 (7) The Permit Board may cancel a permit at the request of
1032 the operator, if the operator does not commence operations under
1033 the permit by stripping, grubbing or mining any part of the permit
1034 area. The Permit Board may rescind a permit, if, because of a
1035 change in post-mining use of the land by the landowner, the
1036 completion of the approved reclamation plan by the operator is no
1037 longer feasible. If a permit is canceled or rescinded, the
1038 remaining portion of the bond or deposit required under Section
1039 53-7-37 shall be returned to the operator as soon as possible.

1040 SECTION 19. Section 53-7-43, Mississippi Code of 1972, is
1041 amended as follows:

1042 53-7-43. (1) Applications for the modification, transfer or
1043 reissuance of any surface mining permit issued under this chapter
1044 may be filed with the department. The Permit Board may modify any
1045 surface mining permit to increase or decrease the permit area and
1046 shall require an increase in the performance bond and a modified
1047 reclamation plan for any expanded area.

1048 (2) Any permit issued under this chapter shall carry with it
1049 the right of successive reissuance upon expiration for areas



1050 within the boundaries of the existing permit. The operator may
1051 apply for reissuance and that permit shall be reissued, except as
1052 provided in this subsection. On application for reissuance the
1053 burden of proving that the permit should not be reissued shall be
1054 on the opponents of reissuance or the department. If the
1055 opponents to reissuance or the department establish and the Permit
1056 Board finds, in writing, that the operator is not satisfactorily
1057 meeting the terms and conditions of the existing permit or the
1058 present surface mining and reclamation operation is not in
1059 compliance with this chapter and the rules and regulations issued
1060 under this chapter, the Permit Board shall not reissue the permit.

1061 (3) Any permit reissuance shall be for a term not to exceed
1062 the term of the original permit established by this chapter.
1063 Application for permit reissuance shall be filed with the Permit
1064 Board at least sixty (60) days before the expiration of the
1065 permit. If an application for reissuance is timely filed, the
1066 operator may continue surface mining operations under the existing
1067 permit until the Permit Board takes action on the reissuance
1068 application.

1069 * * *

1070 SECTION 20. Section 53-7-45, Mississippi Code of 1972, is
1071 amended as follows:

1072 53-7-45. * * *

1073 Any interested party may seek a review or an appeal of any
1074 action or decision of the Permit Board under Sections 53-7-41 and
1075 53-7-43 as provided in Section 49-17-29.

1076 SECTION 21. Section 53-7-47, Mississippi Code of 1972, is
1077 amended as follows:

1078 53-7-47. To the extent that the commission, the Permit Board
1079 and the department may exercise jurisdiction over the areas
1080 specified in this section, no surface mining operation * * * shall
1081 be conducted on lands which are part of a national park, national
1082 monument, national historic landmark, any property listed on the



1083 national register of historic places, national forest, national
1084 wilderness area, national wildlife refuge, national wild or scenic
1085 river, state park, state wildlife refuge, state forest, recorded
1086 state historical landmark, state historic site, state
1087 archaeological landmark or city or county park, forest or
1088 historical area. * * * For good cause shown and after any public
1089 hearing, the commission may make an exception to this section.

1090 SECTION 22. Section 53-7-49, Mississippi Code of 1972, is
1091 amended as follows:

1092 53-7-49. (1) With the assistance of the Mississippi
1093 Department of Wildlife, Fisheries and Parks and the Mississippi
1094 Department of Marine Resources, the commission shall identify and
1095 designate as unsuitable certain lands for all or certain types of
1096 surface mining. * * * The commission shall adopt rules and
1097 regulations to provide reasonable notice to prospective operators
1098 of areas which might be designated as unsuitable for surface
1099 mining and any other interested parties. The commission may
1100 designate areas as unsuitable for surface mining lands if the
1101 commission determines:

1102 (a) The operations will result in significant damage to
1103 important areas of historic, cultural or archaeological value or
1104 to important natural systems;

1105 (b) The operations will affect renewable resource lands
1106 resulting in a substantial loss or reduction of long-range
1107 productivity of water supply or food or fiber products, including
1108 aquifers and aquifer recharge areas;

1109 (c) The operations are located in areas of unstable
1110 geological formations and may reasonably be expected to endanger
1111 life and property;

1112 (d) The operations will damage ecologically sensitive
1113 areas;

1114 (e) The operations will significantly and adversely
1115 affect any national park, national monument, national historic



1116 landmark, property listed on the national register of historic
1117 places, national forest, national wilderness area, national
1118 wildlife refuge, national wild or scenic river area, state park,
1119 state wildlife refuge, state forest, recorded state historical
1120 landmark, state historic site, state archaeological landmark, or
1121 city or county park;

1122 (f) The operations will endanger any public road,
1123 public building, cemetery, school, church or similar structure or
1124 existing dwelling outside the permit area; or

1125 (g) The operations and the affected area cannot be
1126 reclaimed feasibly under the requirements of this chapter * * *.

1127 (2) Unless an operation is exempted under Section
1128 53-7-7(2) (a) or 53-7-7(2) (b), it is unlawful to conduct surface
1129 mining operations within an area designated as unsuitable for
1130 surface mining under Section 53-7-49 or this section or to conduct
1131 surface mining operations in rivers, lakes, bayous, intermittent
1132 or perennial streams or navigable waterways, natural or manmade,
1133 without a permit or coverage under a general permit issued or
1134 reissued consistent with regulations adopted by the commission.

1135 SECTION 23. Section 53-7-51, Mississippi Code of 1972, is
1136 amended as follows:

1137 53-7-51. (1) The commission, upon petition, may designate,
1138 modify or terminate the designation of an area as unsuitable for
1139 surface mining. The commission, upon its own motion, may
1140 terminate the designation of an area as unsuitable for surface
1141 mining. The commission may conduct a public hearing on its
1142 proposed action in accordance with Section 49-17-33. Before
1143 terminating an area as unsuitable for surface mining, the
1144 commission shall provide notice as required under Section 53-7-11.

1145 (2) A petition shall contain allegations of facts with
1146 supporting evidence. The commission shall make a determination
1147 based upon the validity of the facts contained in the petition,



1148 and may designate, modify or terminate the designation of the
1149 lands included in the petition as unsuitable for mining.

1150 (3) Any person aggrieved by an action of the commission
1151 under this section may appeal as provided in Section 49-17-41.

1152 SECTION 24. Section 53-7-53, Mississippi Code of 1972, is
1153 amended as follows:

1154 53-7-53. The Permit Board shall require each permittee to:

1155 (a) Establish and maintain appropriate records;

1156 (b) Make reports, the frequency and nature of which
1157 shall be prescribed by the commission; and

1158 (c) Install, use and maintain any necessary monitoring
1159 equipment for the purpose of observing and determining relevant
1160 surface or subsurface effects of the mining operation or
1161 reclamation program.

1162 SECTION 25. Section 53-7-55, Mississippi Code of 1972, is
1163 amended as follows:

1164 53-7-55. (1) * * * Authorized representatives of the
1165 department, on presentation of appropriate credentials * * *, may
1166 enter and inspect any operation or any premises in which * * *
1167 records required to be maintained under Section 53-7-53 are
1168 located and may at reasonable times, and without delay, have
1169 access to and copy any records and inspect any monitoring
1170 equipment or method of operation required under this chapter.

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



1180 report to the operator. The department shall, * * * as practical,
1181 establish a system of rotation of field inspectors.

1182 (3) Each field inspector, on detection of each violation
1183 of * * * this chapter, rules and regulations adopted under this
1184 chapter or the permit for the operation, shall * * * inform the
1185 operator or the operator's agent orally at the time of the
1186 inspection and subsequently in writing and shall report * * *
1187 any * * * violation in writing to the commission.

1188 SECTION 26. Section 53-7-57, Mississippi Code of 1972, is
1189 amended as follows:

1190 53-7-57. Any representative of the local soil and water
1191 conservation district, upon presentation of appropriate
1192 credentials * * * may enter and inspect the operation for the
1193 purpose of making recommendations regarding reclamation
1194 activities * * *. The representative shall make any
1195 recommendations on the progress of reclamation activities in
1196 writing to the Permit Board.

1197 SECTION 27. Section 53-7-59, Mississippi Code of 1972, is
1198 amended as follows:

1199 53-7-59. (1) Any person who violates, or fails or refuses
1200 to comply with this chapter, any rule or regulation or written
1201 order of the commission adopted or issued under this chapter or
1202 any condition of a permit or coverage under a general permit
1203 issued under this chapter may be subject to a civil penalty to be
1204 assessed and levied by the commission after notice and opportunity
1205 for a formal hearing. In addition to assessing civil penalties
1206 under this section, the commission may submit a written statement
1207 to the Permit Board recommending that the Permit Board revoke the
1208 permit for any operation which is subject to the maximum penalty
1209 of Twenty-five Thousand Dollars (\$25,000.00). Appeals of any
1210 action or decision of the commission may be taken as provided in
1211 Section 49-17-41.



1212 (2) Any civil penalty assessed against a permitted, covered
1213 or exempt operation and levied by the commission under this
1214 section shall not exceed Five Hundred Dollars (\$500.00) for the
1215 first violation; for subsequent violations committed within three
1216 (3) years of the first violation the maximum penalties are: Two
1217 Thousand Five Hundred Dollars (\$2,500.00) for the second
1218 violation, Five Thousand Dollars (\$5,000.00) for the third
1219 violation and Twenty-five Thousand Dollars (\$25,000.00) for the
1220 fourth and subsequent violations by the same operator. Multiple
1221 violations at a site during one (1) day shall not be cumulative.
1222 A separate penalty shall not be assessed for each violation and
1223 only one (1) penalty may be assessed for all violations occurring
1224 at a site during one (1) day. Each day of a continuing violation
1225 shall be a separate violation until corrective action is taken or
1226 the operator after notice of the violation is diligently pursuing
1227 efforts to achieve compliance in a timely manner. In assessing a
1228 penalty under this subsection, the commission shall not consider
1229 offenses occurring before July 1, 2001. In addition to the civil
1230 penalty authorized under this subsection, the commission may order
1231 an operator of a permitted, covered or exempt operation to reclaim
1232 the affected area.

1233 (3) Any civil penalty assessed against an operator for
1234 mining without a permit and levied by the commission under this
1235 section shall not exceed Five Thousand Dollars (\$5,000.00) for the
1236 first violation, Ten Thousand Dollars (\$10,000.00) for the second
1237 violation and Twenty-five Thousand Dollars (\$25,000.00) for the
1238 third and subsequent violations by an operator. In assessing a
1239 penalty under this subsection, the commission shall not consider
1240 violations occurring before July 1, 2001.

1241 (4) In determining the amount of penalty under this chapter,
1242 the commission shall consider at a minimum:

1243 (a) The willfulness of the violation;



1244 (b) Any damage to air, water, land or other natural
1245 resources of the state or their uses;
1246 (c) Costs of restoration and abatement;
1247 (d) Economic benefit as a result of noncompliance;
1248 (e) The seriousness of the violation, including any
1249 harm to the environment and any hazard to the health, safety and
1250 welfare of the public; and
1251 (f) Past performance history.

1252 (5) The commission may institute and maintain a civil action
1253 for relief, including a permanent or temporary injunction or any
1254 other appropriate order, in the chancery court of the county in
1255 which the majority of the surface mining operation is located.
1256 The chancery court shall have jurisdiction to provide relief as
1257 may be appropriate. Any relief granted by the court to enforce a
1258 written order of the commission shall continue in effect until the
1259 completion of all proceedings for review of that order under this
1260 chapter, unless the chancery court granting the relief sets it
1261 aside or modifies it before that time.

1262 (6) Any provisions of this section and chapter regarding
1263 liability for the costs of clean-up, removal, remediation or
1264 abatement of any pollution, hazardous waste or solid waste shall
1265 be limited as provided in Section 49-17-42 and rules adopted under
1266 that section.

1267 (7) Any violation of this law and the Mississippi Air and
1268 Water Pollution Control Law or the Solid Wastes Disposal Law of
1269 1974 shall be assessed a civil penalty under only one (1) of these
1270 laws.

1271 SECTION 28. Section 53-7-61, Mississippi Code of 1972, is
1272 amended as follows:

1273 53-7-61. (1) Any person who knowingly makes any false
1274 statement, representation or certification, or knowingly fails to
1275 make any statement, representation or certification in any
1276 application, record, report, plan or other document filed or



1277 required to be maintained under this chapter is guilty of a
1278 misdemeanor and upon conviction, may be subject to a fine of not
1279 more than Five Thousand Dollars (\$5,000.00).

1280 (2) Any person who * * * knowingly violates, * * * or fails
1281 or refuses to comply with * * * this chapter, any rule or
1282 regulation or written order of the commission adopted or issued
1283 under this chapter, or any condition of a permit issued under this
1284 chapter, is guilty of a misdemeanor and, upon conviction, may be
1285 subject to a fine of not more than Five Thousand Dollars
1286 (\$5,000.00).

1287 SECTION 29. Section 53-7-63, Mississippi Code of 1972, is
1288 amended as follows:

1289 53-7-63. (1) Unless otherwise expressly provided in this
1290 chapter, any interested party aggrieved by any action of the
1291 Permit Board taken under this chapter may request a formal hearing
1292 before the Permit Board as provided in Section 49-17-29. Any
1293 person aggrieved by any action of the commission taken under this
1294 chapter may request a formal hearing before the commission as
1295 provided in Section 49-17-41. Any person who participated as a
1296 party in a formal hearing before the Permit Board may appeal from
1297 a final decision of the Permit Board made under this chapter as
1298 provided in Section 49-17-29. Any person who participated as a
1299 party in a formal hearing before the commission may appeal from a
1300 final decision of the commission made under this chapter as
1301 provided in Section 49-17-41.

1302 (2) (a) Any public hearing of the Permit Board provided for
1303 under this chapter shall be deemed to be the same hearing as
1304 otherwise afforded to any interested party by the Permit Board
1305 under Section 49-17-29. Any formal hearing of the Permit Board
1306 provided for under this chapter shall be deemed to be the same
1307 hearing as otherwise afforded to any interested party by the
1308 Permit Board under Section 49-17-29.



1309 (b) Any public hearing of the commission provided for
1310 under this chapter shall be deemed to be the same hearing as
1311 afforded under Section 49-17-35. Any formal hearing of the
1312 commission provided for under this chapter shall be deemed to be
1313 the same hearing as afforded under Section 49-17-41.

1314 (3) (a) In conducting any formal hearing under this
1315 chapter, the Permit Board shall have the same authority to
1316 subpoena witnesses, administer oaths, examine witnesses under oath
1317 and conduct the hearing as provided in Section 49-17-29.

1318 (b) In conducting any formal hearing under this chapter
1319 the commission shall have the same authority to subpoena
1320 witnesses, administer oaths, examine witnesses under oath and
1321 conduct the hearing as provided in Section 49-17-41.

1322 SECTION 30. Section 53-7-65, Mississippi Code of 1972, is
1323 amended as follows:

1324 53-7-65. (1) When an employee of the department files a
1325 report alleging a violation or when any person files a complaint
1326 with the commission alleging that any other person is in violation
1327 of this chapter, any rule and regulation issued under this
1328 chapter, or any condition of a permit issued under this chapter,
1329 the commission shall notify the alleged violator and conduct an
1330 investigation of the complaint. Upon finding a basis for the
1331 complaint, the commission shall cause written notice of the
1332 complaint, specifying the section of law, rule, regulation or
1333 permit alleged to be violated and the facts of the alleged
1334 violations, to be served upon that person. The commission may
1335 require the person to appear before the commission at a time and
1336 place specified in the notice to answer the charges. The time of
1337 appearance before the commission shall be not less than twenty
1338 (20) days from the date of the mailing or service of the
1339 complaint, whichever is earlier. If the commission finds no basis
1340 for the complaint, the commission shall dismiss the complaint.



1341 (2) The commission shall afford an opportunity for a formal
1342 hearing to the alleged violator at the time and place specified in
1343 the notice or at another time or place agreed to in writing by
1344 both the department and the alleged violator, and approved by the
1345 commission. On the basis of the evidence produced at the formal
1346 hearing, the commission may enter an order which in its opinion
1347 will best further the purposes of this chapter and shall give
1348 written notice of that order to the alleged violator and to any
1349 other persons which appeared at the formal hearing or made written
1350 request for notice of the order. The commission may assess
1351 penalties as provided in Section 53-7-59. Any formal hearing
1352 under this section shall be of record.

1353 (3) Except as otherwise expressly provided, any notice or
1354 other instrument issued by or under authority of the commission
1355 may be served on any affected person personally or by publication,
1356 and proof of that service may be made in the same manner as in
1357 case of service of a summons in a civil action. The proof of
1358 service shall be filed in the office of the commission. Service
1359 may also be made by mailing a copy of the notice, order, or other
1360 instrument by certified mail, directed to the person affected at
1361 the person's last known post office address as shown by the files
1362 or records of the commission. Proof of service may be made by the
1363 affidavit of the person who did the mailing and shall be filed in
1364 the office of the commission.

1365 (4) Any person who participated as a party in the formal
1366 hearing may appeal a decision of the commission under this section
1367 as provided in Section 49-17-41.

1368 SECTION 31. Section 53-7-67, Mississippi Code of 1972, is
1369 amended as follows:

1370 53-7-67. (1) Upon completion of the operation in the permit
1371 area * * *, the operator may file an application with the Permit
1372 Board for the release of the performance bond * * * or deposit.
1373 The application for performance bond release shall require a



1374 description of the results achieved in accordance with the
1375 operator's reclamation plan, which includes revegetation and end
1376 result plans, and any other information the Permit Board may
1377 require in accordance with * * * this chapter. The Permit Board
1378 shall file a copy of the performance bond release application for
1379 public inspection with the chancery clerk of the county * * *
1380 where the majority of the surface mining * * * operation is
1381 located and with the local soil and water conservation district.
1382 The Permit Board shall give notice of the pending bond release
1383 application by publication in the form as the commission by
1384 regulation may require after inspecting and evaluating the
1385 reclamation work as provided by subsection (2) of this
1386 section. * * *

1387 (2) After receipt of the application for bond release, the
1388 department shall, and the local soil and water district
1389 commissioners may, within * * * thirty (30) days, conduct an
1390 inspection and evaluation of the reclamation work involved. The
1391 evaluation shall consider, among other things, the occurrence of
1392 pollution of surface and subsurface water * * *, the probability
1393 of continuance or future occurrence of * * * pollution, and the
1394 estimated cost of abating the pollution. Results of the
1395 evaluation and findings of the department or the soil and water
1396 commissioners, or both, shall be provided within thirty (30) days
1397 after the inspection to the operator and other interested parties
1398 making written request for the evaluation and findings. The
1399 evaluation and findings of the soil and water commissioners, if
1400 any, shall be forwarded to the department before the end of the
1401 thirty (30) days.

1402 (3) The Permit Board may release in whole or in part the
1403 performance bond * * * or deposit if it is satisfied that
1404 reclamation covered by the performance bond * * * or deposit or
1405 portion thereof has been accomplished as required by this chapter
1406 according to the following schedule:



1407 (a) When the operator or surety completes required
1408 backfilling, regrading, and drainage control of a bonded area in
1409 accordance with the approved reclamation plan, the Permit Board
1410 may release * * * up to ninety percent (90%) of the performance
1411 bond * * * or deposit for the applicable permit area. * * * The
1412 amount of the unreleased portion of the performance bond * * * or
1413 deposit shall not be less than the amount necessary to assure
1414 completion of the reclamation work by a third party in the event
1415 of default by the operator; and

1416 (b) When the operator has successfully completed the
1417 remaining reclamation activities, but not before two (2) years
1418 beyond the date of the initial performance bond release, the
1419 Permit Board may release the remaining portion of the performance
1420 bond * * * or deposit. * * * No performance bond * * * or deposit
1421 shall be fully released until all reclamation requirements of this
1422 chapter are fully met.

1423 (c) Notwithstanding the provisions of paragraphs (a)
1424 and (b) of this section, the Permit Board may release one hundred
1425 percent (100%) of the performance bond * * * or deposit to private
1426 contractors surface mining on areas provided to them by the United
1427 States Army Corps of Engineers. * * * The Permit Board may
1428 release the performance bond * * * or deposit only if the
1429 contractors have completed the reclamation work required in
1430 paragraph (a) of this subsection and the Corps of Engineers
1431 furnishes written assurance to the Permit Board that it accepts
1432 responsibility for restoration of the mined areas in accordance
1433 with all applicable reclamation standards of this chapter.

1434 (4) If the Permit Board denies the application for release
1435 of the performance bond * * * or deposit or portion thereof, it
1436 shall notify the operator, in writing, stating the reasons for
1437 denial and recommending corrective actions necessary to secure the
1438 release.



1439 (5) The Permit Board shall authorize the executive director,
1440 under those conditions the Permit Board may prescribe, to
1441 administratively release any performance bond or deposit provided
1442 by an operator for coverage under a general permit issued under
1443 Section 53-7-23. A decision of the executive director is a
1444 decision of the Permit Board and shall be subject to review and
1445 appeal as provided in Section 49-17-29.

1446 SECTION 32. Section 53-7-69, Mississippi Code of 1972, is
1447 amended as follows:

1448 53-7-69. (1) There is created in the State Treasury a fund
1449 to be designated as the "Surface Mining and Reclamation Fund,"
1450 referred to hereinafter as the "fund." There is created in the
1451 fund an account designated as the "Land Reclamation Account" and
1452 an account designated as the "Surface Mining Program Operations
1453 Account."

1454 (2) The fund shall be treated as a special trust fund.
1455 Interest earned on the principal therein shall be credited by the
1456 Treasurer to the fund.

1457 (3) The fund may receive monies from any available public or
1458 private sources, including, but not limited to, collection of
1459 fees, interest, grants, taxes, public and private donations,
1460 judicial actions, penalties and forfeited performance bonds. Any
1461 monies received from penalties, forfeited performance bonds,
1462 judicial actions and the interest thereon, less enforcement and
1463 collection costs, shall be credited to the Land Reclamation
1464 Account. Any monies received from the collection of fees, grants,
1465 taxes, public or private donations and the interest thereon shall
1466 be credited to the Surface Mining Program Operations Account.

1467 (4) The commission shall expend or utilize monies in the
1468 fund by an annual appropriation by the Legislature as provided
1469 herein. Monies in the Land Reclamation Account may be used to
1470 defray any costs of reclamation of land affected by mining
1471 operations. Monies in the Surface Mining Program Operations



1472 Account may be used to defray the reasonable direct and indirect
1473 costs associated with the administration and enforcement of this
1474 chapter.

1475 (5) Proceeds from the forfeiture of performance bonds * * *
1476 or deposits and penalties recovered shall be available to be
1477 expended to reclaim, in accordance with * * * this chapter, lands
1478 with respect to which the performance bonds * * * or deposits were
1479 provided and penalties assessed. If the commission expends monies
1480 from the fund for which the cost of reclamation exceeded the
1481 proceeds from the forfeiture of performance bonds or deposits, the
1482 commission may seek to recover any monies expended from the fund
1483 from any responsible party.

1484 SECTION 33. Section 53-7-71, Mississippi Code of 1972, is
1485 amended as follows:

1486 53-7-71. In the reclamation of land affected by surface
1487 mining for which it has funds available, the commission may avail
1488 itself of any services which may be provided by other state
1489 agencies, political subdivisions or the federal government, and
1490 may compensate them for the services. The commission may cause
1491 the reclamation work to be done through contract with other
1492 governmental agencies or * * * with qualified persons. The
1493 contracts shall be awarded as provided by state law and policies
1494 of the commission. * * * Any person under * * * contract to the
1495 commission may enter onto the land affected to carry out the
1496 reclamation.

1497 SECTION 34. Section 53-7-75, Mississippi Code of 1972, is
1498 amended as follows:

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



1505 available for public examination and shall not be considered as a
1506 public record if:

1507 (a) The applicant submits a written confidentiality
1508 claim to the commission before submission of the information; and

1509 (b) The commission determines the confidentiality claim
1510 to be valid.

1511 (2) The confidentiality claim shall include a generic
1512 description of the nature of the information included in the
1513 submission. The commission shall adopt rules and regulations
1514 consistent with the Mississippi Public Records Act regarding
1515 access to confidential information. Any information for which a
1516 confidentiality claim is asserted shall not be disclosed pending
1517 the outcome of any formal hearing and all appeals.

1518 (3) Any person knowingly and willfully making unauthorized
1519 disclosures of any information determined to be confidential shall
1520 be liable for civil damages arising from the unauthorized
1521 disclosure and, upon conviction, shall be guilty of a misdemeanor
1522 and shall be fined a sum not to exceed One Thousand Dollars
1523 (\$1,000.00) and dismissed from public office or employment.

1524 (4) This section shall be supplemental to remedies for
1525 misappropriation of a trade secret provided in the Mississippi
1526 Uniform Trade Secrets Act, Sections 75-26-1 through 75-26-19.

1527 SECTION 35. Section 53-7-13, Mississippi Code of 1972, which
1528 requires the Board of the Geological, Economic and Topographical
1529 Survey to establish regulations on surface mining, is repealed.

1530 SECTION 36. Section 53-7-15, Mississippi Code of 1972, which
1531 requires the Board of the Geological, Economic and Topographical
1532 Survey to hold certain hearings, is repealed.

1533 SECTION 37. Section 53-7-33, Mississippi Code of 1972, which
1534 requires soil and water conservation commissioners to submit
1535 written recommendations on reclamation plans affecting their
1536 districts, is repealed.



1537 SECTION 38. Section 53-7-73, Mississippi Code of 1972, which
1538 provides a temporary suspension for an operator to suspend mining
1539 operations for two (2) years and to resume operations after giving
1540 notice, is repealed.

1541 SECTION 39. This act shall take effect and be in force from
1542 and after July 1, 2001.

